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The Struggle Between the Center and the Periphery: Justinian's Provincial Reforms of the A.D. 530s

Mark-Anthony Karantabias

University of Kentucky, antoninus1@hotmail.com

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Mark-Anthony Karantabias, Student

Dr. David M. Olster, Major Professor

Dr. Scott Taylor, Director of Graduate Studies

THE STRUGGLE BETWEEN THE CENTER AND THE PERIPHERY:
JUSTINIAN'S PROVINCIAL REFORMS OF THE A.D. 530S

DISSERTATION

A dissertation submitted in partial fulfillment of the
requirements for the degree of Doctor of Philosophy in the
College of Arts and Sciences
at the University of Kentucky

By
Mark-Anthony Karantabias

Lexington, Kentucky

Director: Dr. David M. Olster, Professor of History

Lexington, Kentucky

2015

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ABSTRACT OF DISSERTATION

THE STRUGGLE BETWEEN THE CENTER AND THE PERIPHERY: JUSTINIAN'S PROVINCIAL REFORMS OF THE A.D. 530S

This dissertation analyzes the struggle between the imperial court and the periphery in the context of Justinian's reforms in the early A.D. 530s. The reforms targeting select Roman provinces sought to reduce the size of the imperial bureaucracy while simultaneously attempting to maintain imperial vertical authority. The reforms epitomize the imperial court's struggle to rein in the imperial bureaucracy in the provinces of the Roman Empire. The analysis is framed within the cultural, social, political and economic evolution occurring in Late Antiquity. It shall be proposed that the reforms are one example of the imperial court's attempt to limit the distance between itself and its provincial resources, particularly with regard to fiscality. The reforms also embody the political dynamics between the emperor and his bureaucracy, which is composed of the Roman elite. Roughly two centuries earlier, the Tetrarchic reforms fundamentally changed the relationship between both parties. Specifically, the upper stratum of the aristocracy saw the balance of power tilt in its favor substantially.

Keywords: Justinian, Roman, Late Antiquity, Tetrarchs, Theodora, Antiquity

Mark-Anthony Karantabias

Student's Signature

18 December, 2015

Date

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By

Mark-Anthony Karantabias

Dr. David M. Olster
Co-Director of Dissertation

Dr. David Hunter
Thesis Committee Member

Dr. Scott Taylor
Director of Graduate Studies

TO MY WIFE AND FAMILY

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CHAPTER I: INTRODUCTION

The reign of Justinian is one of the most studied periods in Late Antiquity. This is the case for many reasons. The sources are rather plentiful for the period and that cannot be said of the reign of Anastasius, for example. Within thirty-eight years many developments could be noted. However, many of these developments did not take root in the sixth century, even less during Justinian's reign. As E.H. Carr effectively contended, the individual can only be a factor and not a primary causative force in the course of history.¹ I do believe that this is an appropriate statement with which this analysis should begin. Justinian can only be understood as one piece in a complex jigsaw collection.

In the A.D. 530s, Justinian's administration sought to reform select provinces drastically, roughly in and around Asia Minor. Why these reforms were enacted serves as the founding question of this inquiry. Asking that very question implies a multitude of facets, which are bound to one another. The Roman capacity to administer an empire effectively is one of the most eminent and fiscality is surely one of the most important factors involved therein. However, the question implies much more than that. The evolution of Roman social, economic and cultural dynamics are embedded in this discussion. This includes changes to the fabric of Roman high society, the view of effective governance, the emperor and his power, and political rhetoric. The composition of the Roman elite underwent substantial change in Late Antiquity and the catalyst of this evolution occurred under the Tetrarchs. In that same period, the nature of governance changed significantly, altering the relationships between the summit of Roman society,

¹ E.H. Carr, *What is History?* (Harmondsworth: Penguin, 1987).

the emperor, and his government. With respect to the reforms themselves, the discussion cannot negate the importance of the rhetoric involved. The legal discourse therein is a testament to the relationships between the emperor and his court, and his bureaucracy.

With that, it is important to visit the scholarly views of the emperor in question. In many cases, Justinian is regarded as a ruthless dictator, an absolute monarch and an autocrat. These views are in part truthful, but in large part inaccurate. The image of the emperor profoundly changed over the course of Roman history. At the inception of the Principate, the *princeps* could be viewed as a rather limited monarch. By the third century, the office had evolved, but would see its most significant transformation with the Dominate. Thereafter, emperors were portrayed as Hellenistic despots, disjointed from the realm of commoners. The religious ties to the office endured centuries and the appropriation of Christian elements further cemented the imperial office's sublimity. The emperor was divinely sanctioned and, furthermore, first without equals.² Ammianus Marcellinus illustrates this when he describes the entry of Constantius II into Rome:

And as if [Constantius II] were planning to overawe the Euphrates with a show of arms, or the Rhine, while the standards preceded him on each side, he himself sat alone upon a golden car in the resplendent blaze of shimmering precious stones, whose mingled glitter seemed to form a sort of shifting light. And behind the manifold others that preceded him he was surrounded by dragons, woven out of purple thread and bound to the golden and jewelled tops of spears, with wide mouths open to the breeze and hence hissing as if roused by anger, and leaving their tails winding in the wind. And there marched on either side twin lines of infantrymen with shields and crests gleaming with glittering rays, clad in shining mail; and scattered among them were the full-armoured cavalry (whom they called *clibanarii*), all masked, furnished with protecting breastplates and girt with iron belts, so that you might have supposed them statues polished by the hand of Praxiteles, not men. Thin circles of iron plates, fitted to the curves of their bodies, completely covered their limbs; so that whichever way they had to move their members, their garment fitted, so skilfully were the

² For the emperor as God's regent on earth, see Eusebius' *Vita Constantini*. The trope is a well-established one, predating the rise of Christianity.

joinings made. Accordingly, being saluted as Augustus with favouring shouts, while hills and shores thundered out the roar, he never stirred, but showed himself as calm and imperturbable as he was commonly seen in his provinces. For he both stooped when passing through lofty gates (although he was very short), and as if his neck were in a vice, he kept the gaze of his eyes straight ahead, and turned his face neither to right nor to left, but (as if he were a lay figure) neither did he nod when the wheel jolted nor was he ever seen to spit, or to wipe or rub his face or nose, or move his hands about. And although this was affectation on his part, yet these and various other features of his more intimate life were tokens of no slight endurance, granted to him alone, as was given to be understood. Furthermore, that during the entire period of his reign he neither took up anyone to sit beside him in his car, nor admitted any private person to be his colleague in the insignia of the consulship, as other anointed princes did, and many like habits which in his pride of lofty conceit he observed as though they were most just laws, I pass by, remembering that I set them down when they occurred.³

The imagery of this account, along with so many others, gives rise to a strange paradox in modern scholarship. Scholars aptly discern rhetoric in prose and they understand the panegyric, for example, to be a mere literary genre displaying a myriad of rhetorical devices. Yet, many scholars do not distinguish the contrast with respect to the emperor's power in Late Antiquity. In theory, the emperor was a successor to the oriental despot, God's regent on earth and the embodiment of Caesaropapism. In practice, however, the reality of the power attached to the imperial office was much more subdued. This particular point is the premise on which this work is constructed. Specifically, the reforms of the A.D. 530s will be examined to explain the evolution of imperial power and its relationship with the administration.

Roughly, the two centuries preceding Justinian's reign reveal profound changes to the fabric of the Roman Empire. The relationship between the imperial court, the imperial government and the people evolved. This is manifested in the Roman landscape, as urbanization, one of the key features of the Empire, recedes. Some scholars view this

³ Amm. Marc. 16.10.10 (J.C. Rolfe's translation).

series of developments with a materialist lens. Specifically, some interpret the transition occurring in Late Antiquity and the Early Middle Ages as a transition with this aforementioned method.⁴ For example, J. Banaji proposes that the changing social dynamics in the Later Roman Empire are for the most part due to the monetization of its economy. This then enabled the emergence of a revamped aristocracy, which seized control of the means of production.⁵ Yet, this interpretation does not account for the expansion and stratification of the imperial bureaucracy beginning in the Tetrarchic period. This institutional change actually had more to do with the transition from an urban to rural landscape. P. Sarris, in a similar light, argues that class, particularly the emergence of this elite, is responsible for decentralization.⁶

Two issues stem from this interpretation. First, the Egyptian great estate cannot function as a template for the vast empire.⁷ Although P. Sarris indicates otherwise, one

⁴ P. Anderson, *Passages from Antiquity to Feudalism* (London: NLB, 1974); P. Anderson, *Lineages of the Absolutist State* (London: NLB, 1974); *Società Romana e Produzione Schiavistica: Mercati, Mercati e Scambi nel Mediterraneo*, ed. A. Giardina and A. Schiavone, 3 vols. (Bari: Laterza, 1981); C. Wickham, "The Other Transition: From Ancient World to Feudalism," *P&P* 103 (1984), 3-36; J. Haldon, *The State and the Tributary Mode of Production* (New York: Verso, 1993); C. Wickham, *Framing the Early Middle Ages Europe and the Mediterranean 400-800*, (Oxford: Oxford University Press, 2005); A. Giardina, "Marxism and Historiography: Perspectives on Roman History," in *Marxist History - Writing for the Twenty-First Century*, ed. C. Wickham (Oxford: Oxford University Press, 2007), 15-31; D. Rathbone, "Review: The Roman Villa," *The Classical Review* 59 #2 (2009).

⁵ J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance* (New York: Oxford, 2001).

⁶ P. Sarris, *Economy and Society in the Age of Justinian* (New York: Cambridge, 2006).

⁷ Owners of small landholdings are very much present in archaeology and cannot be underestimated. It does not appear that magnates dominated the entire landscape across the Empire. For small landholders living in the city, see: *Les plus anciens recueils des miracles de Saint Démétrius et la pénétration slave dans les Balkans*, vol. 1: miracle 2, § 199, p. 185; R.S. Bagnall, *Egypt in Late Antiquity* (Princeton: Princeton University Press, 1993). For Greece, see M.H. Jameson et al., *A Greek Countryside: the Southern Argolid from Prehistory to the Present Day* (Stanford: Stanford University Press, 1994); C. Kosso, "Public Policy and Agricultural Practice: Archaeological and Literary Study of Ancient Greece" (University of Illinois at Chicago, 1993). For Nessana, see P. Mayerson, "The Agricultural Regime," in *Excavations at Nessana (Auja Hafir, Palestine)*, ed. H.D. Colt (London: British School of Archaeology in Jerusalem,

can look at the archaeological finds in Northern Syria, for example, where G. Tate has effectively indicated that there is little evidence confirming a widespread phenomenon.⁸ Yet, the genesis of this very elite is, for the most part, due to the center's reforms. The expansion of the bureaucracy, which embodies the state, created a new social class. In other words, bureaucracy, categorically a superstructure, in effect altered the base. This is an inherent problem with this line of interpretation. However, Banaji does address this.⁹

What both scholars fail to address is the origin of the mutation that occurs in the period. It does not take into account the institutional ramifications of the Tetrarchic reforms and thus only focuses on its subsidiaries. To draw from the well of capital, one no longer had to be an important player in the city. In essence, neither class conflict nor wage labor were the causative forces creating these social and economic conditions. On the contrary, the institutions that restructured Roman society, particularly the elite, could not be classified therefore as superstructure, when its causative force supersedes the dynamics between social classes. Then again, the genesis of a social class is problematic due the lack of objectiveness at its inception. A class, such as this "new" aristocracy

1962), 211-269. T. Lewit notes a rise in medium-sized landholdings and also underlines the problem with the large estate argument: *Agricultural Production in the Roman Economy A.D. 200-400* (Oxford: Tempus Reparatum, 1991), 31-35; *Villas, Farms and the Late Roman Rural Economy (Third to Fifth Centuries AD)* (Oxford: Archaeopress, 2004).

⁸ P. Sarris, *Empires of faith : the fall of Rome to the rise of Islam, 500-700*, The Oxford history of medieval Europe (Oxford ; New York: Oxford University Press, 2011), esp. 260. Sarris extrapolates from R. Bagnall's article to defend his position (R. Bagnall, "Evidence and Models for the Economy of Roman Egypt," in *The Ancient Economy: Evidence and Models*, ed. J.G. Manning and I. Morris (Stanford: Stanford University Press, 2005). Bagnall, however, does not propose that the papyrological evidence found outside of Egypt corroborates the great estate's universality. This is the fatal flaw in Sarris' monograph (2006) in which a very brisk survey attempts to establish the Egyptian great estate as an empire-wide model. That is not to say that Bagnall's points are not succinct. On the contrary, they are, but they do not vindicate the fatal flaw in Sarris' argument. For G. Tate, see *Les campagnes de la Syrie du Nord du IIe au VIIe siècle*, Bibliothèque archéologique et historique (Paris: Libr. orientaliste P. Geuthner, 1992), 287-295.

⁹ J. Banaji, *Theory as History: Essays on Modes of Production and Exploitation* (Boston: Brill, 2010); J. Banaji, "Putting Theory to Work," *Historical Materialism* 21 #4 (2013), 129-143.

Sarris and Banaji discuss, is subjective at its core. Its subjectivity stems from the mechanism by which it is mobilized in the political field. The makeup of its constituency is relative. Actors within the political field group members symbolically and a feeling of identity is thereupon developed. Hence, a social class' ontology casts doubt on its role as a primary causative force in history. The insistence to label social classes as such ignores the relativity of its existence. Moreover, the ruling class was comprised of the aristocracy. The actors therein could be found in the imperial court, the bureaucracy and the Church, amongst others. From the sources, one can deduce that the ruling class was not unified in its efforts to maintain the status quo. On the contrary, the Tetrarchic Reforms granted an enormous amount of power to the upper tier of the elite. Under Justinian, the imperial court systematically attempted to undercut this very power that was granted and even seized by this "new" elite. In essence, the ruling class was not a single entity; it was conflicted among itself. The state did not seek to maintain the ruling class' interests; the state, divided between the imperial court and the bureaucracy's interests under Justinian, was at odds. Therefore, to use this as a foundation in an interpretative rubric is inherently problematic.

Another interpretation, which in many respects, is prominent within the field focuses on ideology and how it permeated the mechanisms of government and Roman society.¹⁰ Much attention is given to the nature of imperial power and how it was

¹⁰ F. Dvornik, *Early Christian and Byzantine Political Philosophy: Origins and Background*, 2 vols. (Washington: Dumbarton Oaks Center for Byzantine Studies, 1966); H. Ahrweiler, *L'idéologie politique de l'Empire byzantin* (Paris: Presses Universitaires de France, 1975); M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian* (New York: Routledge, 1992); C. Kelly, "Emperors, Government and Bureaucracy," in *The Cambridge Ancient History*, ed. A. Cameron and P. Garnsey (London: Cambridge University Press, 1997), 138-183; A.R. Hybel, *The Power of Ideology: from the Roman Empire to Al-Qaeda* (New York: Routledge, 2009), 20-43.

exercised. With respect to the provincial reforms of the A.D. 530s, M. Maas views them as an expression of imperial ideology, stemming from the tension between Christianity and Classicism. C. Ando's work is from a broader standpoint, as his work examines the relationship between the center and the periphery. He argues that imperial ideology was the bond linking both and that it enabled a functional degree of subjugation.¹¹ While this interpretation does provide interesting insights into the political and social dynamics of the Later Roman Empire, it does fall short in certain areas. For example, the interpretation of laws as an expression of imperial ideology neglects the linguistic value showcased in the codes. Rhetoric was a toolbox from which the author could draw upon many of its resources. The tropes therein were used as templates to be applied in various scenarios. H. Hunger, D. Olster and M. Kahlos' works have conclusively demonstrated that.¹²

Several scholars use a multi-faceted approach, often with more weight given to institutional matters.¹³ With an interpretative framework based on New Institutional Economics theory, J.H.W.G. Liebeschuetz examines the change occurring to the fabric of the Roman Empire in Late Antiquity. He succinctly describes the effects of this the administrative evolution in the period:

¹¹ C. Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley: University of California Press, 2000).

¹² H. Hunger, *Prooimion: Elemente der byzantinischen Kaiseridee in den Arengen der Urkunden*, Wiener byzantinistische Studien (Vienna: In Kommission bei H. Böhlaus Nachf., 1964); D. Olster, "Justinian, Imperial rhetoric, and the Church," *Byzantinoslavica* 50 (1989), 165-176; M. Kahlos, "Ditches of Destruction – Cyril of Alexandria and the Rhetoric of Public Security," *BZ* 107 #2 (2014), 659-690.

¹³ J. Haldon, "The End of Rome? The Transformation of the Eastern Empire in the Seventh and Eighth Centuries CE," in *The Roman Empire in Context: Historical and Comparative Perspectives*, ed. J.P. Arnason and K.A. Raaflaub (Malden: Wiley-Blackwell, 2011); J. Haldon, "Economy and Administration," in *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (New York: Cambridge University Press, 2005). Also, *l'histoire totale* also offers a multi-angled approach, but with less weight given to institutional history. See E. Patlagean, *Pauvreté économique et pauvreté sociale à Byzance, 4e-7e siècles* (Paris: Mouton, 1977).

It was an essential characteristic of the Greco-Roman city that it comprised both a built-up urban centre and a rural territory which was administered and controlled from the center. This was something which the Roman imperial authorities had found particularly useful, since it gave them administrative machinery to collect taxes in the countryside. The transformation of the classical city in many regions involved the breaking of this unity.¹⁴

A. Laniado echoes much of this statement in his own work. However, while Liebeschuetz focuses more on change, Laniado also gives attention to continuity.¹⁵

The first chapter of this work is centered upon the makeup of Roman government in Late Antiquity. By necessity, it confronts the age-old issue of the Late Empire's governance. A litany of scholars has treated the topic, but it is a necessary backdrop to the discussion. In order to discuss the provincial reforms of Emperor Justinian, it is important to set them in their proper historical context. Within it, I hope to offer new insight into the change occurring in the period. This period will cover roughly two centuries, from the Tetrarchs ruled to the early sixth century. The administrative difficulties will be at the center of this analysis. The examination will determine the breadth of the Tetrarchic reforms and how they fundamentally altered the fabric of the Later Roman Empire. The curia was the most important piece in the machinery linking the center to the periphery. However, the reforms caused the dynamics between both spectra to mutate beyond the scope of their creators' intentions. The municipal council not only permitted the capital to rule without excessive intrusion into the daily lives of the provincials. More importantly, it enabled the capital to seek its fuel, namely taxes. Yet, the reforms initiated under the Tetrarchs caused much more change than they surely

¹⁴ J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City* (New York: Oxford University Press, 2001), 411.

¹⁵ A. Laniado, *Recherches sur les notables municipaux dans l'Empire protobyzantin* (Paris: Association des amis du Centre d'histoire et civilisation de Byzance, 2002).

hoped. Centuries-old Roman social, economic and political structures transformed permanently.

The analysis moves from macro to micro in Chapter Two. Attention will conveniently shift from Rome's effort to govern through the curia to the curia's actors, the aristocracy. The echoes of the Tetrarchic reforms permeated Roman society and its reach extended to the makeup of the elite. By redefining the relationship between the center and the periphery, the stratified elite also changed by necessity. The materialization of bureaucratic layers caused the restructuring of Roman social, economic and political structures. Therefore a new and revamped social "currency" must have followed. The reformed bonds between the capital and the provinces redefined social, cultural and symbolic capital. For example, euergetism was no longer a civic hallmark of the aristocracy. During the days of the Republic and the High Empire, private subsidies from a local notable for public works were very common. The profound alteration to the institutional value of the city in Late Antiquity explains the decline of this custom in the Late Empire. The zenith of a political career was no longer in the municipal councils of provincial capitals or of sizeable cities. It gravitated towards the imperial bureaucracy, wherever it may be.

In Chapter 3, attention shifts to the imperial bureaucracy at the dawn of the sixth century. The mechanics of the bureaucracy will serve as the basis to investigate the dynamics between the aristocrats staffing it, the imperial court and the emperor's power. An inquiry into the relationship between the bureaucracy and the emperor will help explain the state of the bureaucracy at that particular juncture in Roman history. The High Empire saw a rather unbalanced share of power between the emperor and his

administration. The latter was much smaller in size and the bridge between local politics and the Roman central administration was rather narrow. Hence, the emperor in theory held almost absolute power over those who could cross it. Yet that very bridge changed with the Tetrarchic Reforms and so it is important to determine the ramifications of that development. In other words, it is imperative to determine whether the capital was able to maintain verticality in governance and whether the balance of power changed if at all.

In the final chapter, the provincial reforms of the A.D. 530s will draw the attention. These reforms are very fascinating for their seemingly contrarian presentation. Justinian and John the Cappadocian decided to reduce the size of the bureaucracy in select provinces. Moreover, provinces that once were created from larger ones were now consolidated. This appears to be a drastic departure from the trend in the Late Empire, when heavy-handed verticality appears to have been the norm. In the process, the rhetoric included in the *Novellae* will be examined. The discussion of the emperor's power in the previous chapter will continue, but solely centered on Emperor Justinian. The relationship between the bureaucracy and the emperor is once again fundamental in the understanding of the reforms.

CHAPTER II: THE TRANSFORMATION OF ROMAN SOCIAL, POLITICAL AND ECONOMIC STRUCTURES

Evolving socio-economic conditions often pose new challenges to governmental efficiency. The Empire itself evolved from a loose coalition of conquered kingdoms, empires and city-states into an increasingly centralized monolith, most notably after the fall of the Republic and more particularly after the Tetrarchic reforms. Emperors sought to maximize income to meet external military challenges on the one hand and insure their own security against revolt on the other hand. The heart of the complex bureaucratic machinery rested on the foundation, which was a relic of the Mediterranean's political and cultural landscape of centuries past. It dated from the period prior to the Late Republic during which the most significant territorial expansion took place. The curiales were what may be called the vertebrae of the Roman Empire with respect to governance, but most notably with regard to the fiscal system. These city officials' most important duty to the capital was to collect taxes. However, the drastic expansion of the bureaucracy, which occurred under the Tetrarchs and Constantine, exacerbated fiscal problems and also created an institutional crisis. An institutional vacuum materialized due to a diaspora of provincial elites seeking entry into the newly expanded imperial administrative apparatus, which offered highly lucrative careers.

Thereafter, the city and its vital importance within the machination of government were in doubt. New social, political and economic dynamics led to a decline of this institutional unit, which sustained the capital and by extension the empire. As a result, curiales were subject to a plethora of legislation designed to control the broken dam that

in many respects stratified Roman society. The provincial elite, although important and influential, had a ceiling with regard to social mobility. This was due to the exclusivity of the somewhat smaller central imperial government, prior to the Tetrarchic reforms. Evidently this is based on the comparison of the pre and post-reform sizes of government. With the reforms, the new layers of bureaucracy permanently altered that rather rigid division and blurred the distinction between the periphery and the center by further bridging it. In this context, it is important to track the evolution of this prime fiscal unit, the city and its curiales.

Libanius' work is one of the most examined concerning the social, political and economic dynamics in the East and this particular passage is one of the many that have drawn much attention in the context of the debate: "The curia which once counted 600 members, now has only 60."¹ This particular passage expresses the core concern of this study, which seeks to qualify and to quantify the evolution of the curiales, particularly what has been labeled "the flight of the curiales" in scholarship. The ability to understand this phenomenon has an immediate impact on the understanding of the empire's decline itself, which in many respects was due to a fiscal breakdown.

The topic itself has drawn an enormous amount of attention in the role of the empire's decline and thus much literature. M. Rostovtzeff is often considered to be the scholar who really initiated the larger debate on the issue.² With respect to English scholarship, the great institutional historian, A.H.M. Jones, and his long lasting work

¹ Libanius, *Or.* 2.33: "Ἀλλὰ τὰς βουλὰς ἐρεῖς. ἀλλ' εἰ καὶ μηδὲν ἄλλο διέκειτο κακῶς, τοῦτό γ' ἂν ἔπειθε μόνον λέγειν οἷά- περ λέγω. ἀντὶ μὲν ἑξακοσίων τῶν τότε οὐδὲ ἐξή- κοντα νῦν. ἐξήκοντα εἶπον; οὐδὲ μὲν οὖν ἑξ παρ' ἐνίοις." Also see, *Or.* 48.3-4

² M. Rostovtzeff, *The Social & Economic History of the Roman Empire* (Oxford: The Clarendon press, 1926), 502-541. However, in the same year Abbott and Frost published their work in which the same opinion was put forth: *Municipal Administration in the Roman Empire* (Princeton: Princeton University Press, 1926), 198.

influence much of the discussion centering on the city and the curiales in the Late Empire. Moreover, he also proposed that this particular institutional evolution led to the decline of the empire itself. He proposed that the curiales quickly declined during the period following the reforms and thereupon sank into irrelevance.³ Many scholars succeeding Jones, including T.F. Carney, J.-P. Sodini, J.H.W.G. Liebeschuetz, P. Diaz and M. Whittow⁴ have also held this same view and have modified it in certain ways, but the essence of the argument remains. There is also discussion of the culmination of this aforementioned flight. M. Whittow argues for a disappearance of the curiales: "The Justinianic Code and the *Novellae* still show some traces of their existence... But in general they had disappeared throughout the Near East by the mid-sixth century. The relative silence about their departure should not cause surprise."⁵ Other scholars such as J. Haldon and W. Brandes are more cautious and argue for a later date.⁶

On the other hand, many European scholars have examined this issue with a skeptical eye. C. Lepelley has deemed the flight to be an exaggeration in his study of North Africa. Contrary to what many believe, he proposes that the desertions of the curia

³ A.H.M. Jones, *The Later Roman Empire, 284-602*, 2 vols. (Baltimore: Johns Hopkins University Press, 1986), 737-757.

⁴ T.F. Carney, *Bureaucracy in traditional society: Romano-Byzantine Bureaucracies Viewed from within* (Lawrence: Coronado Press, 1971), 95; J.-P. Sodini, "L'Asie Mineure," in *Le monde byzantin* (Paris: Presses universitaires de France, 2004), 358; J.H.W.G. Liebeschuetz, *Antioch: City and Imperial Administration in the Later Roman Empire* (Oxford: Clarendon Press, 1972), 174-186; P. Diaz, "Cities and Territory in Hispania in Late Antiquity," in *Towns and their Territories between Late Antiquity and the Early Middle Ages*, ed. G.P. Brogiolo, N. Gauthier, and N. Christie (Boston: Brill, 2000), 5; M. Whittow, "Ruling the Late Roman and Early Byzantine City: A Continuous History," *P&P* #129 (1990), 9-10.

⁵ M. Whittow, "City," 12. M. Waelkens also argues for a mid-sixth century disappearance of the curiales: M. Waelkens, "Die Stadt in der Spätantike: Niedergang oder Wandel?," in *Geschichte*, ed. J.-U. Krause and C. Witschel (Stuttgart: Steiner, 2006), 202.

⁶ J. Haldon and W. Brandes, "Towns, Tax and Transformation: State, Cities and their Hinterlands in the East roman World, c. 500-800," in *Towns and their Territories between Late Antiquity and the Early Middle Ages*, ed. G.P. Brogiolo, N. Gauthier, and N. Christie (Leiden ; Boston: Brill, 2000), 169-170 n.110.

were much more limited.⁷ In another work, F. Ausbüttel does not note any form of decline. He nevertheless indicates that some city councils did encounter difficulties, but not to the extent many believe.⁸ The legal sources indicate that there was a sharp focus on controlling the deluge at the municipal level. The amount of legislation has been interpreted as a sign of a political crisis. However, J. Durliat denies this interpretation of the sources.⁹ More recently, in an analysis focusing on the municipal elite, A. Laniado concludes that there is no sign of an eroding curia in the East, contrary to what occurs in the West. Thus, he concludes that the legislation and the capital's concern are mainly centered upon controlling social evolution.¹⁰ Hence, many questions immediately come to mind when faced with polarized views such as: was the decline a rhetorical trope of classicizing authors or of disgruntled authors nostalgic of the past; had the institution itself failed to adapt to its challenges; was this due to an inversely proportional relation of power between the periphery and the center? These are among many questions that can be posed regarding the topic.

However one matter is made evident when examining the Later Roman Empire: the pursuit for efficiency in the domain of fiscality through the rationalization of the bureaucracy¹¹ occurs concurrently with a rise in demand of income. How this pursuit and rise in demand are related, is a question, which this entire work will seek to answer. For now, it is important to explore the relationship between the provincial administration and

⁷ C. Lepelley, *Les Cités de l'Afrique romaine au Bas-Empire*, 2 vols. (Paris: Études augustiniennes, 1979), 290-292.

⁸ F. Ausbüttel, *Die Verwaltung des Römischen Kaiserreiches* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1998), 13-14.

⁹ J. Durliat, *Les rentiers de l'impôt*, *Byzantina Vindobonensia* (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1993), 42.

¹⁰ A. Laniado, *Recherches sur les notables municipaux dans l'Empire protobyzantin*, 26.

¹¹ Here I am using Weber's definition, which involves the calculability, predictability, efficiency and the control over uncertainties.

institutional reform in the context of imperial fiscal solvency. First, I shall examine the status of the curialis prior to Justinian's reforms of the A.D. 530's. In this particular area, the examination of political corruption and the Tetrarchic reforms' effects will be central. Political corruption was a reality confronting Roman government for centuries and this particular period is no different. Corruption plagued the imperial coffers in so many ways and as such it is vital to examine. The Tetrarchic reforms happened in the span of a few decades, but their effects were felt socially, economically and politically until the collapses in both the West and East. Thereafter, a study of the attempted solutions addressing the fiscal woes caused by the curia's decline will be conducted. Numerous attempts were made to redress the crisis through different means and with different micro-objectives. However, these efforts, which will be examined, are all directly related to the decline of the curialis.

THE TETRARCHIC REFORMS

To begin this inquiry, it is best to examine the Tetrarchic reforms since they initiate a series of fundamental changes to Roman society. Although hinging upon centuries of social, political and economic evolution, the chain of causation linked to the institutional failure of the curialis in the Later Empire finds many of its roots in these very reforms. The Tetrarchs and Constantine oversaw many changes, but the main areas affected were government and the military. The intent of these changes was manifold. Decades of civil war and political intrigues plagued the Roman Empire after the death of Marcus Aurelius. Instability in domestic affairs translated into weakness in foreign affairs. The Roman military unravelled many times in the face of invading tribes in the third century. The

instability manifested itself in many shapes and forms. The constant need for manpower to mount a rebellion or to fend one off necessitated many resources. This put unnecessary stress on the fiscal system. Moreover, additional stress was added by the strife itself. Battles were fought on Roman territory amongst Romans and against foreign invaders. The dire need to meet increasing fiscal obligations was met with currency devaluation. The repeated debasing of Roman currency was taken to all new levels. Soon, the Roman Empire's economy was stricken with hyperinflation.¹²

This general overview of the social, economic and political realities confronting the Empire prior to the reforms directly relates to the one institution upon which most of the fiscal weight rested. The curialis was presented with increasing demands on the part of the imperial administration. The central government evidently needed to meet its needs financially and thus the extractors were harder pressed. Yet, the demand for more income cannot be linked with certainty to the decline of this civic institution. We shall soon revisit this particular point of objection. Nevertheless, Diocletian, his imperial colleagues and later Constantine would undertake the monumental task of reforming administrative institutions to meet their fiscal needs and to forestall the epidemic of civil strife in domestic affairs.

The central government was the least affected in this context. It did not see any drastic changes in its operations generally, but saw its size quadruple due to the nature of the Tetrarchy itself. The establishment of four emperors necessitated a fourfold increase in central administration. Each Augustus and Caesar required a duplication of the central government. However, some of the bureaucracy closely linked to the central administration saw fundamental changes in their mode of operations. The bureaucratic

¹² A.H.M. Jones, *LRE*, 38ff.

layer and associated office which saw the most change was the Prefecture. Its power, already considerable in itself, was expanded in the judicial and fiscal areas. Essentially, the Praetorian Prefect saw his formidable powers remain constant, but they rested mainly in the civil part of government.¹³

The noticeable expansion of offices permeated all layers of government and this is why Lactantius made the following complaint: "...many officials and many offices were forced upon each province and also almost every city. There were also many accountants, magistrates and deputies of Prefects..."¹⁴ This growth could be seen in the number of governorships, the creation of the vicariate and in other areas of administration. The number of provinces multiplied significantly.¹⁵ As seen above, the central government saw the emperor's court four-fold. The layers created beyond the central apparatus were considerable. Changes occurred at the provincial level, which necessitated intermediaries between the center and the periphery. The reforms called for the governors of some provinces, particularly in Asia Minor, to assume increasing administrative duties. In other cases, governors saw their military responsibilities stripped. These civil governors were charged with more financial duties to the center. The combination of these changes rendered judicial responsibilities more tedious and so the Diocese was created to alleviate the administrative burdens of the governorship. This new bureaucracy's authority spread

¹³ C. Kelly, "Bureaucracy and Government," in *The Cambridge Companion to the Age of Constantine*, ed. N. Lenski (New York: Cambridge University Press, 2006), 186-188.

¹⁴ I here provide my translation of Lactantius, *De Mortibus Persecutorum* 7.4: "...multi praesides et plura officia singulis regionibus, ac pene jam civitatibus incubare, item rationales multi et magistri, et vicarii praefectorum..."

¹⁵ Barnes' edition of *Laterculus Veronensis* in T.D. Barnes, *The New Empire of Diocletian and Constantine* (Cambridge, MA: Harvard University Press, 1982), 202f.

over several provinces and its head, the vicar, assuaged the stress on the judicial system at the provincial level.¹⁶

When the Tetrarchs and later Constantine conceptualized numerous means by which to attain their objectives mentioned above, little did they know about the magnitude of the fallout. These were most likely unforeseen and surely unintended. Therefore, it is now important to examine the machinery of government, particularly the fiscal apparatus, after the reforms were implemented. The curiales were an integral part of the empire's fiscal solvency. However, this administrative apparatus was not without its problems. Political corruption was one of the most persistent troubles plaguing Roman government for centuries. During the Republic and during the High Empire, one might notice the rather small size of the imperial government overseeing such a large amount of land, with the curiales at the center of the administrative machinery. Romans often saw governmental appointments to the provinces as a venue for flagrant abuses of the locals. There are a multitude of instances in the sources where we may note varying degrees of political corruption. For instance, in the Late Republic, Cicero describes his predecessor's money lending scheme in Salamis, which was utterly fraudulent.¹⁷ Or, in the High Empire one can read Juvenal lament this behaviour in his satires. The nature of the narrative is evidently satirical, but the genre itself has its objective: constructive ridiculing. The intent in this case is to ridicule the reprehensible facets of the Roman administration of its provinces:

When you enter your long-expected Province as its Governor, set a curb and a limit to your passion, as also to your greed ; have compassion on the impoverished provincials, whose very bones have been sucked dry of marrow ; have regard to what the law ordains, what the Senate enjoins ;

¹⁶ A.H.M. Jones, *LRE*, 42-45.

¹⁷ Cicero, *Ep. ad Atticum* 5.21.

consider what honours await the good ruler, with what a just thunderstroke the Senate hurled down Capito and Numitor, those plunderers of the Cilicians.¹⁸

Perhaps that is why the same satirist has Umbricius decry: “Since there is little room for honest endeavors in Rome, and no benefits from true labor...”¹⁹ These are telling signs of the political culture in Rome and how the provinces were seen as playgrounds where imperial appointees could run rampant.

Above are merely a handful of examples of political corruption throughout the three periods of Roman history. Yet, these examples do testify to the difficulty of administrating the empire efficiently due to the poor oversight at the provincial level. The lack of efficiency here signifies the inability of the central government to protect its citizens from such abuses. More importantly, it also implies the ability to extract taxes effectively without exorbitant skimming. Excess thereof would inevitably impoverish the citizenry during future collection. The problem then translates into disturbances in the vertical linearity between the periphery and center. Hence, political corruption at the provincial level was often in the shadows and out of sight of the capital. As the empire evolved, the pursuit of income grew increasingly due to a multitude of conditions, which included corruption and institutional inefficiency. There was also the largest expenditure in the imperial budget, the Roman military.

The reality reported from the periphery to the center could easily be fabricated or exaggerated. This is of particular interest when related to fiscal affairs. The curiales were

¹⁸ Juvenal, *Satire* 8, 87-97: Expectata diu tandem provincia cum te rectorem accipiet, pone irae frena modumque, pone et avaritiae, miserere inopum sociorum: ossa vides rerum vacuis exucta medullis; respice quid moneant leges, quid curia mandet, praemia quanta bonos maneant, quam fulmine iusto et Capito et Numitor ruerint damnante senatu, piratae Cilicum, sed quid damnatio confert? (Here, G.G. Ramsay’s translation is used.)

¹⁹ Juvenal, *Satire* 3, 21 (I here use my own translation.)

thus in some ways part of the systemic financial problems confronting the Roman Empire. Political corruption, wars, the size of the army, maintenance of infrastructure and other matters put a constant stress on the imperial coffers. At the local level, in the provinces, the curialis was fundamentally the mortar holding the bricks together that compose the imperial fisc. Hence, in any case, the curia would always bear the brunt of reforms targeting imperial finances.

Yet, in Late Antiquity, the pursuit to rationalize the imperial administration did not solve the laundry list of problems, for the emperors “manifestly had less and less direct personal knowledge of affairs, making them easy to fool inside the palace and to impersonate outside it.”²⁰ This necessarily facilitated corruption on unprecedented levels. Things had thus not changed very much after the Tetrarchic reforms with regard to corruption. Ammianus Marcellinus recounts events at Tripoli in which he describes a count’s extortion scheme and how this same count sought to hide his crimes by cooperating with the Master of Offices in Rome at the expense of Tripolitans.²¹ Hence, in this particular case, the military official at the provincial level was cooperating with a centralized and newly created office, a product of the growth of government. Almost two centuries later, the *Justinian Code* would again try to redress this problem with highly charged rhetoric.²² This is a very stark indication of the persisting reality. Thus, the reforms, which were aimed at increasing fiscal solvency amongst many other designs, did not in fact accomplish one of its primary goals. The aim to have a more elaborate and efficient control of the periphery in fact failed. It did succeed in other areas, such as the

²⁰ A.H.M. Jones, *LRE*, 42-45.

²¹ R. MacMullen, *Corruption and the Decline of Rome* (New Haven: Yale University Press, 1988), 147. 28.6.

²² Nov. 8 in which there is a renewed imperial attempt to eradicate or at least lessen the venality of offices and other forms of corruption at the provincial level.

pacification of internal strife. This was achieved with the division of the civil and military branches, along with the multiplication of provinces.

Apart from a few respites, financial woes persisted after the Tetrarchic reforms. The curialis was subject to a multitude of legislation in the *Theodosian Code* as a result. The reforms did not only affect the curia, but also caused a cultural, political and economic shift. The evolution of imperial political power under the Dominate and thereafter was in some ways unprecedented. The cult of personality or rather the charisma associated with the emperor's authority beginning with Diocletian translated into a physical and social distance between the center and the periphery. The creation of numerous bureaucratic layers between the emperor and the provincials is the reason why this occurred. The available evidence in form of petitions originating from the provinces and their associated rescripts is very limited in the period following Diocletian.²³ This is a result of the sudden elevation of the imperial office. The fluid and constant flow of communication between the periphery and the center was no more. Thus, the oft-quoted exchange between Pliny the Younger, the Governor of Bithynia, and Trajan concerning Christians is symbolic of an emperor's less lofty status prior to the establishment of the Dominate.²⁴ Although, in this case, the communications were between a governor and an emperor, there is a clear indication of a leader, who is more in touch with the day-to-day workings of the empire itself.

²³ The Vatican Collection (*Fragmenta Vaticana*) only contains nine rescripts after Diocletian's reign. D. Feissel's compilation of data found generally in epigraphic, papyrological, legal and literary sources only counts seven from the Diocese of Asia, seven from the Diocese of the Orient, four from Egypt and seven from the Latin-speaking provinces. See D. Feissel, "Pétitions aux empereurs et formes du rescrit dans les sources documentaires du IV^e au VI^e siècle," in *La pétition à Byzance*, ed. D. Feissel and J. Gascou (Paris: Association des amis du Centre d'histoire et civilisation de Byzance, 2004), 44-52.

²⁴ Pliny the Younger *Epist.* 10.96.

A small government administering a large empire without efficient oversight appears to have maintained the same problem, namely corruption, while attempting to achieve institutional efficiency. The government was now larger and the layers between the center and the periphery permitted and even fostered an increasing amount of political corruption. This context is of utmost importance to understanding the plight of the curialis, who now found himself demoted in a large sea of imperial officials.

The Tetrarchic reforms as mentioned above created a whole new set of challenges while attempting to redress one of the most pressing issues of the empire itself, political corruption. The empire faced an increasing amount of fiscal woes due to a multitude of issues such as the size of Roman-administered territory and its proportional relationship to military spending. This is not to mention civil wars and administrative corruption, amongst many other drains on the fiscal system. However large the military expenditures were, there was little reason to reduce its size due to the perpetual threats from the Near East, Central Asia, the Caucasus and the Danube. Thus, the efforts to extract taxes efficiently were a priority by necessity.

However, one thing remained constant over the centuries surprisingly, the curiales and their duties at the local level. As quoted above, Libanius is one of the earliest known literary sources that decry the plight of the old administrative institution of the municipal council. Even more so, in this same context, he is also one of the first authors to lament the dilapidated status of the civic-minded provincial administration, an irrefutable sign of the restructuring of Roman society, an inevitable outcome of the Tetrarchic reforms. However, questions remain when revisiting the scholarly debate in this context. Is Libanius truthful about the statistics? Or is he partially telling the truth, masking the nub

of his complaints with his expertise in rhetoric? It may be a possibility that the orator in fact exaggerated the numerical decline in order to buttress his real concern: the demise of the civic-oriented cultural and political structure.²⁵ The notables had turned their attentions away from the city towards the center. Distortion of reality is no novelty in ancient sources. Libanius, a product of the educational system, *paideia*, was a very clever rhetorician and his use of rhetorical devices such as a hyperbole would therefore be of no surprise. When attempting to underscore a point, distorting reality as Herodotus' figures of the Battle of Thermopylae²⁶ was by no means an academic or literary crime as it is considered today. At the moment this is mere speculation, as the evidence must be scoured in order to reach a verdict on the quantification of the curiales' "flight." To draw comparable analogies, a state senator seeking to become a congressman is not one who is fleeing the state senate. A member of the board of directors seeking to become CEO is not fleeing the board. This is especially the case with the most eminent curiales. With regard to this segment, the evidence in the sources does not substantiate a flight caused by the most horrid conditions. On the contrary, these very notables' finances were well above any threat of imminent ruin. They had more than enough capital to buy their way into the bureaucracy. However, the middling and more humbling curiales were left to bear the brunt with a decreasing pool of wealthy colleagues that could pay for any shortcomings during collection and whose properties were very much fiscal assets for the treasury. Then again in some cases, property was not a determinant factor for curial charges; the load was spread evenly irrespective of owned assets.²⁷

²⁵ See Chapter II's discussion.

²⁶ Herodotus, *The Histories* 7.186.

²⁷ For the most eminent curiales not struggling: Libanius, *Or.* 49.8. For the hardships of those left behind: Libanius 32.8; for the émigrés' exemptions: *CTh* 11.16.4; 12.1.140, 148, 173.

A FLIGHT OF CURIALES?

Arguably, the most used evidence to support this line of argumentation is found in legal documents. First the *Theodosian Code* and then the *Justinian Code* provide a plethora of legal evidence, which may be seen in the vein of a “flight.” The outcome of the institutional reforms under the Tetrarchs was surely not entirely foreseen. The creation of many additional layers between the province and the capital resulted in a socio-political crisis due to the creation of power vacuums at numerous levels. Another glaring example of the curia’s decline could be found in Athens. An inscription dedicated to Dexippus numbers the Areopagus at 750 members in the third century, prior to the Tetrarchic reforms.²⁸

However, inscriptions of the second half of the fourth century demonstrate that the attrition rate was very high, reducing this number to 300.²⁹ Though one of the most significant problems with this statistical anomaly is the historical context, which is essential to the understanding of this substantial decline. The decrease is not in anyway surprising, when we examine the empire as a whole. Jones, Bowman and Nichols have convincingly demonstrated that the average size of a curia during the period of the High Empire was far below 300. They varied in size, anywhere from 50 to 100.³⁰ The chronological gap is evidently a factor, but the fact that the city’s council was rather

²⁸ *IG* II-III² 3669.

²⁹ *IG* II-III² 3716 (also see *IG* II-III² 4222):

ἡ ἐξ Ἀρείου πα-
γου βουλή καὶ ἡ βου-
λὴ τῶν τριακοσίων
[. .]λη Μελιτέα
ἀρετῆς ἕνεκεν.

³⁰ Jones, *LRE*, 724-725; J. Nichols, "On the Standard Size of the Ordo Decurionum," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 105 (1988), 712-719.

sizeable for the third century is anomalous. For centuries, Athens was a shell of its former self in size due to a multitude of events such as its sacking by Sulla or later by the Heruli. Thus, this particular case cannot be taken as evidence of a broader phenomenon.

The city of Timgad in North Africa provides us with one of the most interesting documents related to this topic. The album of Timgad dates from the second half of the fourth century. It was either composed under the reign of Julian or Valentinian I.³¹ If it is dated in the reign of Julian, it may serve as a testimony to the emperor's efforts to decentralize the imperial administration by restoring the office of the curialis and the lands seized by the imperial administration to the city councils. The album lists 263 names (at the most 284).³² For the purpose of this study, one figure draws attention. This city of North Africa reinforces the notion stated above. No more than 10,000 to 15,000 inhabited the city at its peak in the later phase of the High Empire, while the council itself numbered at least 149 according to the album, which is dated to the later fourth century.³³ The total is evidently above the average stated above, but the number is still relatively low compared to Athens and thus highlights the anomaly in the Attic city. Then again, the proportion between the city's population and the number of curiales is not troubling. For such a city to have that amount of curiales over half a century after the Tetrarchic reforms elapsed does indicate that the flight of the curiales may not have been as substantial as believed.

³¹ Chastagnol proposes the reign of Julian in A. Chastagnol, *L'album municipal de Timgad* (Bonn: Gabelt, 1978), 40-48. For Valentinian, see H.-J. Horstkotte, "Die Datierung des Dekurionenverzeichnisses von Timgad und die spätrömische Klerikergesetzgebung," *Historia* 33 (1984), 238-247.

³² A. Chastagnol, *L'album municipal de Timgad*, 39.

³³ J. Stambaugh, *The Ancient Roman City* (Baltimore: John Hopkins, 1988), 282; A. Chastagnol, *L'album municipal de Timgad*, 33; C. Lepelley, *Les Cités de l'Afrique romaine au Bas-Empire*, 459-470.

Libanius also provides us with some statistical figures of another town in the East. In his correspondence with Celsus in Cilicia, the subject of discussion is once again the size of the curia. According to the letter, Celsus found Alexandria ad Issum with “but one” curialis and then sought to rectify the situation by augmenting the total to fifteen. Libanius recounts the predicament as such:

Immediately from the start, you seemed worthy of our hopes for you when you found but one man - I hear who was disabled - in the curia of Alexandria. In the span of two days, not by force, but by clear expectations, you caused this number to grow to fifteen. Because you showed the curiales that they would not be prey to those who plunder cities, you brought back some from the mountains and you coaxed others hiding under their beds to serve their city as if it were for profit.³⁴

Libanius, being the clever rhetorician he is, seemingly injects a rather glaring hyperbole into his correspondence once again. The description of curiales hiding in the mountains and even under beds demonstrates the level of his abilities in expressing his political opinion effectively. In reality, what is most likely occurring in this particular episode is not represented in Libanius' words. It is more plausible that the arrival of the governor did not cause any enthusiasm amongst the curiales.

A. Laniado states that this “chiffre anecdotique” is not a representation of reality: “On aurait cependant tort d'en conclure que la curie ne comptait qu'un seul membre.”³⁵ It is more conceivable that Celsus sought the curiales out to establish communications, being the newly appointed governor of the province, but they did not feel the obligation to greet him. Moreover, another possibility may be considered. Those who were in the

³⁴ I here provide my own translation of Libanius, *Ep.* 696.1-2: Εὐθὺς ἀπὸ γραμμῆς ἡμῖν ἄξιος τῶν ἐλπίδων ἐφάνης ἓνα μὲν ἄνδρα τὴν βουλὴν εὐρῶν Ἀλεξανδρείας καὶ οὗτον, ὡς ἀκούω, χωλόν, εἰς πεντεκαίδεκα δὲ τὸν ἀριθμὸν ἐκτείνας ἐν ἡμέραις δύο βία μὲν οὐδεμιᾷ, προσδοκίαις δὲ λαμπραῖς. δείξας γὰρ ὡς οὐκ ἔσονται Μυσῶν λεία τοῖς ἀρπάζουσιν βουλευταί, τοὺς μὲν ἐκ τῶν ὁρῶν κατήγαγες, τοὺς δὲ ὑπὸ κλίνας κρυπτομένους ἐπεισας ὡς ἐπὶ κέρδος τὸ λειτουργεῖν ἐκτηδᾶν. The city in question is Alexandria ad Issum.

³⁵ A. Laniado, *Recherches sur les notables municipaux dans l'Empire protobyzantin*, 6.

mountains may have been monks, who were once curiales.³⁶ Moreover, the size of the curia is another concern. Alexandria ad Issum is by no means a substantial city center. However, at the Council of Nicaea, Hesychius of Alexandria Minor was in attendance and there is also evidence for Bishop Aristion in the *Acta Sanctorum*.³⁷ Therefore, it may be deduced that the presence of a bishop in a city is directly related to the city's size. Hence, Alexandria ad Issum was not an inconsiderable population center. As a result, Libanius' words may not be taken at face value once again. In this particular instance, the employment of a rhetorical trope, a hyperbole, is in all likelihood used to express the rhetorician's opinion on the given topic.

The difficulty is twofold when examining Libanius' figures. First, he is very much opposed to innovation. The dread of innovation was a rather common characteristic of Roman civilization. The pivotal fourth century saw monumental innovations, notably in the areas of religion and government. Yet, the orator had no difficulty adapting the new governmental system to his own interests. It appears that the distaste for any innovation is genuine, until Libanius himself could be its beneficiary. This leads to the second difficulty, which lies in his associations with imperial high society. Although he developed some form of a friendship with Emperor Julian, Libanius demonstrates a repeated support for the former more decentralized system of government, which hinged largely upon the curia.³⁸ The rhetorician was connected within the network of high

³⁶ *CTh* 12.1.63.

³⁷ A.K. Bowman, *The Town Councils of Roman Egypt*, American studies in papyrology (Toronto: A. M. Hakkert, 1971), 22.; B.H. Cowper, *Syriac miscellanies*, 1 vols. (London: Williams and Norgate, 1861). In this particular case, the city of Alexandria ad Issum is also known as Alexandria Minor and Alexandretta.

³⁸ *Or.* 18.147-148 where Libanius champions the curia and Julian's efforts to restore it. He then proceeds to denounce Constantius II whom he alleges to have fostered the decline of the city council. According to Libanius, the emperor enabled the wealthier curiales to abandon their posts.

society, particularly the imperial families. When he was at the zenith of his career, Libanius was in the close entourage of Theodosius I. Yet, there is no evidence of him wielding significant power in the imperial court. His trepidation and even scorn aimed at innovation and at Christianity is rather unmistakeable. Innovation was a clear threat to *τάξις* and Libanius amongst many others deplored any changes to “the same old, same old” mindset.

THE RESTRUCTURING OF ROMAN SOCIETY

The contempt of innovation held by such figures as Libanius directed itself towards the vast expansion of the imperial bureaucracy at the turn of the fourth century. Innovation was a clear threat to *τάξις*, as it was the case for Cato the Elder, Symmachus and John Lydus, who deplored any change to the established ways, whether it be in Greek culture, the Altar of Victory or the imperial government, respectively. This was surely the case for Libanius only until it was advantageous to his own machinations. The creation of new bureaucratic layers in government offered the aristocracy new venues for prestigious political careers. Yet, the expansion of government that occurred under the Tetrarchs and Constantine restructured social, political and economic structures. This thus required an evolution of the social hierarchy. The political field would witness a logical reorganization due to the prospects, and the evolution of cultural, social and economic

In the same *Oration* (*Or.* 18.192-193), Libanius proceeds to commend Julian’s humble ways. He then describes the curiae’s vanity in trying to outdo one another with crown gold contributions to the emperor (undoubtedly, a clever rhetorical juxtaposition). Other attempts to relieve the cities financially are highlighted by the rhetorician: *Or.* 2.58, 18.135-139; Julian, *Misop.* 365b, 367d-368b.

capital. The upper stratum of the curia could now maintain its prominence, but more importantly expand it into a new frontier.

Yet Libanius was but a simple curialis, not a *principalis*. His family's preeminent status in Antioch was diminished by the time he was born due to participation in political intrigue.³⁹ He attained such heights in Roman society due to the social and cultural capital he gained from the educational system, which enabled him to mingle with high society. Moreover, it also demonstrates the other side of this institutional evolution occurring in Roman government. With the help of well-to-do parents, high education enabled the individual to enter the imperial bureaucracy.⁴⁰ Libanius complained about his contemporaries' penchant for vocational training. However, the traditional form of education in Greek rhetoric still offered the best access to the imperial bureaucracy.⁴¹ Hence, education was the primary driver, but near impossible to access without sufficient pedigree. This was a viable alternative to the paradigm mentioned above, which is primarily centered on social class.

Nevertheless, the reproduction of social hierarchy achieved through the educational system or through social class now favoured the well-educated aristocrat and the *principalis*. A new system of subtle social exclusivity was created as an inevitable

³⁹ Libanius, *Autobiography* 1.257-258: Libanius confirms that he was a curialis, but that he obtained immunity from serving on the city council. *Autobiography* 1.4-5: He provides a brief background of his family.

⁴⁰ See Chapter II's discussion about cultural capital.

⁴¹ Libanius' complaints: *Or.* 18.160; J.H.W.G. Liebeschuetz, *Antioch: City and Imperial Administration in the Later Roman Empire*, 242-255. Concerning access: A. Cameron, "Education and Literary Culture," in *The Cambridge Ancient History: The Late Empire, A.D. 337-425*, ed. A. Cameron and P. Garnsey (Cambridge: Cambridge University Press, 1998), 673-679; P. Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison: University of Wisconsin Press, 1992), 35-70. Also see Craig A. Gibson's introduction to *Libanius's Progymnasmata: Model Exercises in Greek Prose Composition and Rhetoric* (Atlanta: Society of Biblical Literature, 2008), xvii-xxv.

corollary of the restructuring process.⁴² The curia was one institution, but its members were far from one and the same with regard to cultural, symbolic and economic capital.⁴³ The social stratification within it is well attested in the sources, particularly in the context of flogging. *Principales* could oppress and physically discipline less prominent curiales.⁴⁴ Libanius evidently benefitted from these changes. However, many of the local aristocrats serving in the curiae could only still gaze at a ceiling. This ceiling once stratified the aristocracy on a local level, but now it stratified it on a much broader level geographically. The wealthier component now drew away from local politics and could have privileged access to transformed social, economic and cultural capital.⁴⁵ The re-stratification of the aristocracy was now based along civic and imperial lines. This is in contrast to P. Diaz, who proposes that this evolution produced curiales who “belonged to a genuinely urban middle class.”⁴⁶ The term used is inaccurate due to the sheer nature of the anachronism.

⁴² There are exceptions to the broader trend as several influential bishops, who were highly educated. As C. Rapp writes: “The second type of curial bishops is exemplified by five men from the late fourth century whose biographies follow the same pattern: Basil of Caesarea, Gregory of Nazianzus, John Chrysostom, Augustine, and his friend Alypius. They commanded an impressive education yet opted to forgo the prospects of the career for which they had been trained and instead chose to withdraw from the world and to dedicate themselves to a period of Christian formation through asceticism and study.” (C. Rapp, *Holy Bishops in Late Antiquity: The Nature of Christian Leadership in an Age of Transition* (Berkeley: University of California Press, 2005), 186.)

⁴³ *CTh* 11.16.4 mentions the differences in wealth amongst curiales: ut primo a potioribus, dein a mediocribus adque infimis quae sunt danda praestentur. Also see *CTh* 12.1.140; 148; 173; 399.

⁴⁴ For oppression: *CTh* 11.16.4; 12.3.2; for physical discipline: *CTh* 12.1.127; 14.4.10; Libanius, *Or.* 27.42.28; Theod., *Nov.* 15.1.1; P. Petit, *Libanius et la vie municipale à Antioche au IV^e siècle après J.-C* (Paris: P. Geuthner, 1955), 352-358; T. Kopeček, "Curial Displacements and Flight in Later Fourth Century Cappadocia," *Historia: Zeitschrift für Alte Geschichte* 23 #3 (1974), 319-342.

⁴⁵ For the evolution of capital, see Chapter II. For the upper tier of the curiales and their migration to the imperial bureaucracy, see: *CTh* 12.1.187; Theod., *Nov.* 15.1-2; Also, see A.H.M. Jones, *The Later Roman Empire, 284-602*, 2 vols. (Norman: University of Oklahoma Press, 1964), 543-545; 748-753;.

⁴⁶ P. Diaz, "Cities and Territory in Hispania in Late Antiquity."

However, P. Garnsey, with whom Diaz agrees, correctly points out that the curial class was downgraded in the social scale.⁴⁷

The innovation was problematic, for it caused a series of fundamental changes. This expansion of central authority effected one of the most fundamental political institutions of the Roman Empire, the curia. A structure that endured the test of time was to undergo a monumental transformation. The institution of the municipal council epitomized in the curialis was an emblem of one of the most fundamental structures of Antiquity. The decentralized nature of the Roman Republic and the High Empire thereafter was embodied in these civic-centered political institutions. The individual and the city were at the center of a larger conglomeration of microcosms, that is, the Roman Empire. The imperial capitals relied on the health of this intrinsic network of local elites to fuel the many endeavours of the emperor. The civic-minded citizen was exemplified in the curialis and this same centuries-old political office was the fiscal foundation of the imperial coffers.

What had been not only the administrative heart of the imperial taxation machine, but in many regards the cultural and political trademark of Antiquity, was now relegated to near institutional obsolescence. In any given province, the citizen was disposed to gravitate towards the city in diverse areas, notably in the political field. This was not only due to the social norms because the political actors did indeed have some form of agency. Despite some form of a rubric to which the political actors were subjected, individuals could not be ignored in their capacity of agency. Emperors like Diocletian or Constantine

⁴⁷ P. Garnsey, *Social Status and Legal Privilege in the Roman Empire* (Oxford: Clarendon, 1970), 280; P. Diaz, "Cities and Territory in Hispania in Late Antiquity," 7. Also see C. Lepelley, "Fine dell'ordine equestre: le tappe dell'unificazione della classe dirigente romana nel IV secolo," in *Società romana*, ed. A. Giardina (Rome: Laterza, 1986), 227-244.

demonstrated this in their ability to cause a monumental cascading effect. Their decisions permanently and fundamentally altered the political, social and economic fabric of the Roman Empire. In the case of the Tetrarchic reforms, the political power wielded by the emperors set a mechanism of rapid evolution into motion, restructuring long-established socio-political structures. This was obviously not well received by many including Libanius himself, as stated just above, who undoubtedly disdained innovation, until he could reap any benefit from it.

Many different socio-political structures of Antiquity did not endure institutional change unscathed because a whole new set of challenges caused some to evolve and others to disintegrate ultimately. The Tetrarchic reforms revamped a whole set of social, economic and political structures, which had already undergone centuries of a rather slow evolution. The result of these developments was felt quite strongly at the local level where the reforms necessitated drastic change. In this context, the curialis would eventually succumb to these new developments. What was civic-oriented was now capital-centered; what was a provincial curialis was now an imperial bureaucrat; what was centrifugal was now centric. Therefore, it is important to determine what immediate impact the reforms had on the curialis himself.

Therefore, the theory, which stresses the flight of the curiales is not entirely accurate, due to the stress put on the historical evolution of the office and the tendency to acknowledge the panoply of changes caused by the reforms themselves. The reforms were not only conceived to address fiscal issues. They were also conceptualized for many other reasons, one stemming from a century-long period of civil wars in which the loyalty of aristocrats, commanders and soldiers was often in doubt. It was also a period in which

both the threats from within and without were proportionally linked to the size of the army and thus by extent military expenditures. Undoubtedly, military expenditures were by far the largest expense in the imperial budget. Hence, political and fiscal stability were at a premium. This same theory, which emphasizes vacancies at the city level, examines the deterioration of the curialis office as a result of a *failure* to perform essential duties. There is a stress on impoverishment, but this interpretation is in some respects downplaying the larger context, stated above. In essence, the curiales are seen as a cause of the Roman Empire's decline instead of a subsidiary of a drastic restructuring of once what seemed to be everlasting political, economic and social structures. In the following pages, we shall visit a few instances in which we might note this development.

At the municipal level, the institutional vacuum created by the reforms of the Tetrarchs and Constantine had many unintended consequences, as so many reforms do to this day. The ceiling for the provincial elites was suddenly raised to unparalleled heights. While in the past, provincials would generally obtain promotions through the military or through imperial subjective favour based on some form of qualification. In the High Empire, participation in Roman politics was a contentious issue as the Lyon Tablet proves.⁴⁸ Claudius Pompeianus is one good example among many that testify to the qualification-based promotion. A Syrian of rather humble origins with respect to high society, Pompeianus soon rose through the military hierarchy and was later betrothed to the daughter of Marcus Aurelius in marriage.⁴⁹ However, with the Tetrarchic reforms social mobility amongst elites was much more institutionalized and widespread and less ad hoc as it was prior to Diocletian. The period immediately following the reforms did

⁴⁸ *CIL* XIII, 1668; also, see Tacitus, *Annals* 11.23-24.

⁴⁹ *HA, Life of Marcus Aurelius*, 20.

necessitate social mobility in high volume. Moreover, social mobility was possible in the era following the expansion of government, but much of it was illegal or soon made to be illegal. Therefore, we are presented with a panoply of evidence in which we may note a movement of curiales into the revamped and expanded imperial administration.

In Side, a city in the province of Pamphylia, epigraphic evidence testifies to a certain Bryonianus Lollianus, who fits the paradigm, conceptualized by M. Rostovtzeff. The evidence for Bryonianus' life is dated to the late third and early fourth centuries.⁵⁰ Bryonianus escaped his duties to Side as a curialis. One might examine this piece of evidence and immediately categorize it as undeniable proof of the flight of the curiales. However, being from a family of senatorial lineage, Bryonianus married into another senatorial family only to receive employment in the imperial bureaucracy. Before this rise to prominence in the imperial system, Bryonianus and his family were no strangers to euergetism in Side, a cultural hallmark of the now revamped social, political and economic structures. For example, Bryonianus' family was responsible for the restoration of the vital municipal aqueduct.⁵¹

The issue with this case is rooted in the identification of causation. This evidence can easily be taken out of context, due to the fact that Bryonianus is allegedly fleeing his duties as a curialis in his city. Yet, that does not appear to be the case, for the noted motion does not indicate it. The motion is initiated by attraction and not by repulsion. In other words, the system of causation is not internal, but external; eminent curiales were

⁵⁰ J. Bolland et al., *Acta sanctorum quotquot toto orbe coluntur: vel a catholicis scriptoribus celebrantur*, trans.

⁵¹ C. Foss, "Bryonianus Lollianus of Side," *Zeitschrift für Papyrologie und Epigraphik* 26 (1977), 167-168; J.-M. Carrié, "Bryonianus Lollianus de Sidé ou les avatars de l'ordre équestre," *Zeitschrift für Papyrologie und Epigraphik* 35 (1979), 214. The epigraphic evidence is published within the article.

drawn out to greener pastures and not driven out by economic and political conditions in the city. Therefore, this phenomenon must be viewed from an entirely different angle and that is rather difficult because the scholarly trend has in some respects shaped the understanding of such evidence. The initial attraction into the bureaucracy and the Church then caused secondary problems. The lesser curiales left behind still had to shoulder the responsibilities. With the departures, these duties, particularly with respect to fiscality and to finances, were not easily born by the remaining civic officials. These curiales in all likelihood sought an exit.

Nevertheless, in the case of Bryonianus, he was not fleeing his duties. On the contrary, he was doing something that many would do in this period or even today for that matter. He sought to advance his career in a society which had until recently been quite restricted to local affairs. The creation of layer upon layer of imperial administration offered new possibilities to provincial elites (hence the pull and not the push). Therefore, it is no surprise that Bryonianus, a curialis, would seek to better his standing in Roman society by exploiting these new openings created by the Tetrarchic reforms. In this case of Bryonianus, it is difficult to envisage some form of flight as J.-P. Sodini does.⁵² In no form or fashion can this be labeled a flight when the administrative office (curialis) is not causing flight. The term “flight” insinuates some form of escape from a source that is problematic in nature. There is no convincing basis to validate this. The incentive of promotion is the source of movement in this case. The distinction must be made with respect to this development between positive and negative vectors. This once again relates to the social, political and economic transformation of centuries-old structures that takes place at the end of the third and beginning of the fourth centuries.

⁵² C. Foss, "Bryonianus Lollianus of Side."

The motion of attraction was in large part created by the creation and expansion of imperial bureaucracies. Being a local elite and a leader of one's city was now a much less attractive and lucrative proposition. Hence the prospect for career advancement was the primary source of movement in this case.

Instances of ambitious aristocrats such as those above are plentiful in the sources. Again in Asia Minor, in the mid-fourth century, a certain Hyperechius of Ancyra's⁵³ career tells a similar story to that of Bryonianus. What is also of interest here is the fact that this same local aristocrat was one of Libanius' favourite students, despite the latter's lack of pedigree.⁵⁴ Libanius subtly indicates this social reality in the opening lines of his letter to Modestus.⁵⁵ Interestingly, the rhetorician provided some form of career guidance to Hyperechius, suggesting that he might remain in the provincial administrations of the empire, specifically in Galatia. This particular piece of advice given to his disciple reflects Libanius' ethos discussed above in which the orator was very much an advocate against innovation within the imperial administrative system (until he could be its beneficiary). Yet, Hyperechius, perhaps a product of his generation, which was evidently younger than Libanius', viewed the expanded imperial bureaucracy as fertile grounds for career advancement.⁵⁶ He thus turned his ambitions away from the provinces to the central apparatus of government in the army. Due to the relationship between the two men, Libanius gladly helped Hyperechius in his pursuit. Yet, these efforts did not bear the fruit he expected.⁵⁷

⁵³ *PLRE* I s.v. Hyperechius.

⁵⁴ Libanius, *Ep.* 298.

⁵⁵ Libanius, *Ep.* 308.1 in which it is stated the Hyperechius was not very well respected in his town. Moreover,

⁵⁶ Libanius, *Ep.* 296.

⁵⁷ Libanius, *Ep.* 308.

Hyperechius and his desire to establish himself in the expanded Roman administrative machine did not end there, however. In A.D. 362, Maximus, his father, fuelled his son's ambitions further by suggesting that he petition for entry into the Senate of Constantinople. Yet once again Libanius was not so supportive of Hyperechius' pursuits. Not surprisingly, the orator urged his student to remain in Ancyra as a provincial politician.⁵⁸ His family's prominence would ensure a great political career, but one that was restricted to the periphery of the Roman Empire. Hyperechius was delayed in his quest to become part of the political landscape in the capital. Later in the same year, Hyperechius pursued entry into the Senate. Yet his father transferred the family's property to him. As a result of this, Hyperechius was now liable to curial duties, but that did not stop him from persuading his city to absolve him from his duties so that he might continue his path.⁵⁹ Unfortunately, the aspiring politician did not have an ideal ending, as he would eventually lose his life due to a poor choice of allegiance.

At any rate, there are two important details that emerge from his story. First, we may note the generational gap between the student and the teacher (Hyperechius and Libanius, respectively). This generational gap is important, for it offers a telling contrast between the old and new social, political and economic structures. Hyperechius welcomed and even relished the new opportunities for career advancement in the Roman Empire's expanded administration. On the other hand, Libanius as seen above on a few occasions was not much of a proponent of the increasingly centralized government, as he lamented the transfer of power from the periphery to the center. This is rather clear in several of letters in which either he clearly supports the older system of governance,

⁵⁸ Libanius, *Ep.* 731.

⁵⁹ Libanius, *Ep.* 731; 805; 777; 803.

which was centrifugal, or he laments the change that has occurred through the use of rhetorical devices. He twice urged Hyperechius to maintain the old tradition by remaining a local elite. Libanius' opinions and his advice are directly related to increasingly obsolete political, social and economic structures that were restructured with the Tetrarchic reforms. Hyperechius adhered to the innovations of the reforms and was not reluctant to explore the new possibilities offered particularly to a man of his pedigree. The Tetrarchic reforms, restructuring centuries-old structures, are clearly present in this instance where the transition has been accomplished but not fully; not fully because there were still remnants of the old system represented by the likes of Libanius.

Despite this rather quick evolution, which was triggered by the Tetrarchic reforms, the reality on the ground could not be ignored by the capital. Financial woes were still to plague the Roman Empire for centuries on end, with the exception of a few shortly lived periods of prosperity. The two main problems confronting the imperial government were paramount. On the one hand, the sudden expansion of the imperial bureaucracy at the turn of the fourth century caused a notable institutional crisis in which many curiales naturally sought some form of promotion in the newly revamped hierarchy of the imperial administration. This eventually created an institutional vacuum at the local level where the curiae were still responsible for taxation. On the other hand, the lack of revenue at the center was still a persistent problem. Much legislation was issued to address these problems.

In Ancyra, there is another conflict into which Libanius is drawn. Achillius, one of his former students, left his native city to pursue his studies and ultimately practice medicine in Palestine. When his father died in A.D. 362, by law, Achillius was compelled

to return to his city to assume the curial duties of his father. However, he attempts to circumvent this new reality by seeking exemption for these inherited duties to his city.⁶⁰ We thus find ourselves with another letter written by the pen of Libanius but this time to the Governor of Galatia, Maximus. In this letter, Libanius attempts to exercise his influence on the governor while acting as a mediator for his friend. This being a simple act of patronage remained one of the longstanding traits of Roman society.

This is not the only act of patronage where Libanius intervenes for the benefit of Achillius. Libanius again corresponds with this same Maximus (Governor of Galatia), but for the purpose of recommending an unidentified doctor. If we were to follow R. Foerster's argument, in *Ep.* 756, the unnamed doctor mentioned is Achillius.⁶¹ With respect to the curial duties, C. Foss and J.-P. Sodini both view Libanius' intervention on behalf of Achillius as a sign of the flight of the curiales. Foss states that Achillius had taken his curial duties "so seriously that he had drained his resources," while Sodini, citing Foss, in this context claims "le poids des affaires de la cité est ressenti non comme un honneur mais comme un fardeau."⁶² However, it appears that both scholars in this case have interpreted Libanius' rhetoric at face value and by extension have overlooked the context.

Achillius is clearly a client of Libanius' patronage network and the latter is thus exerting his influence on two separate occasions, surely at the behest of his client. Therefore, the correspondence with Maximus concerning Achillius' curial duties in Ancyra poses another distinct explanation instead of both Foss' and Sodini's interpretation. It is more likely that Libanius was employing a rhetorical device in his

⁶⁰ Libanius, *Ep.* 756.

⁶¹ Libanius, *Ep.* 756.

⁶² J.-P. Sodini, "L'Asie Mineure," 358.

letter, specifically a hyperbole, in order to persuade Maximus to relieve Achillius of his civic duties. It is very plausible that Achillius was not the least interested in leaving his livelihood in Palestine out of compulsion to return to his home city for a career that differed drastically than his own. Although he could practice his profession, as may be noted in the other letter to Maximus cited above, his time would eventually be shared between both functions.

Scholarship is almost unanimous when examining the curial class in the period following the Tetrarchic Reforms. That has thus created a fundamental problem due to the rapidity with which a scholar might label any evidence relating to the curialis leaving his civic duties as a “flight.” However, the context, the rhetoric and the lucrativeness of a position within the expanded imperial administration must be accounted for. Yet, when presented with evidence that appears to indicate some form of “flight” as seen above in many different cases, it is quickly assumed that the office of the curialis is the least lucrative and most burdensome position one could have in politics and thus it must be a push and not a pull factor involved. The historical problem lies not in the sudden change in the outlook of the office (from a boon to a bane), but in the changing demographics occurring at the local level. The reforms created a new objective for the particularly young local elite and this objective was not in the provincial capital, even less within his native city. The revamped and expanded imperial administration was the object of desire of many aspiring politicians and civil servants in the periphery. The culture of the empire changed very quickly in what seems to be less than a decade. The structures, which had long been defining characteristics of imperial Rome and even to a certain extent Classical Greece, were now turned on their head. Euergetism, civic pride and local independence

were now becoming a relic of the past. This is rather clear in the West where many aristocrats receded from the capital and from the limelight of public life. They withdrew to their estates and either took part in the administration in a much more isolated fashion or simply joined the Church. The long-term effects of the reforms amongst other things can be seen in the letters of both Sidonius Apollinaris and Ruricius of Limoges. The once confrontational, factional and extraordinarily ambitious aristocrat of Rome was increasingly harder to find in urban settings. Noblemen increasingly communicated through correspondence, and neither in a city council nor a forum.

UNFETTERED SOCIAL MOBILITY, ITS CONSEQUENCES AND THE IMPERIAL RESPONSE

The results of the Tetrarchic reforms have been discussed at length above, notably the social, political and economic effects. How these reforms restructured what seemed to be timeless structures caused a significant social crisis that affected governance and thus fiscal solvency. Presented with this new and surely unforeseen challenge, the Roman Empire could only react to the unintended consequences of the Tetrarchic Reforms. In this context, it is important to begin with the imperial administration's attempt to control the institutional vacuum created by the reforms themselves. These gaps in the curia left by the notables compounded many enduring problems such as the increasing need for revenue, rampant corruption and the lack of tight oversight.

Legislation was issued in scores to control the social and economic crisis caused by this unbridled social mobility. The problem could only be addressed through law for the most part as we come to notice an attempt to fossilize the classes in Roman society, notably at the local level, whether it be in the military, in the curia, in professions or in

the fields. A new pattern begins to emerge in which the Roman citizen was in many cases destined by law to inherit the trade of his father. However, this brief moment in which the imperial court permitted some form of social mobility was immediately followed by a very strong pendulum swing in the opposite direction. Laws were issued in many forms and fashions with one object in mind: limiting the flood from the curia to the imperial bureaucratic apparatus. Yet, at the same time, many of the local aristocrats were able to gain some form of immunity by entering the upper echelons of Roman government, notably at the senatorial level. In the following pages, we shall examine the capital's attempt to curtail the exodus of local aristocrats, particularly the curiales, into the imperial bureaucracy.

Many different methods were employed to stall the flood of curiales pushing its way into the imperial administration. One of the main concerns in this particular social trend was the loss of fiscal revenue. Hence, the emperor and his legislative apparatus attempted to target an area, which could harm any provincial noble the hardest: property. In an attempt to discourage the local aristocrats from exiting their cities and leaving behind their curial duties, the government sought to regulate their property holdings. In A.D. 396, when the son of a curialis would not follow his father's career path, emperors Valentinian and Theodosius permitted the curia to seize up to a quarter of the son's property.⁶³ This legislative move made by the imperial court could only minimally dampen the effects of the institutional vacuum. The loss of wealthy aristocrats to the upper echelons of the imperial machine of governance was in many cases permanent. The curia would lose essential manpower and by extension vital sources of revenue. The whole property would not be subject to the curia any longer. Instead of a certain amount

⁶³ *CTh* 12.3.1.

of very wealthy local aristocrats serving on the city council, namely as chief curiales, in many cases an urban center's government would be destitute of the very wealthy citizens.⁶⁴ Many would acquire fiscal immunities through numerous methods as will soon be examined. One must then consider the significantly negative implications of the Tetrarchic reforms. They may have been conceptualized to address serious fiscal and political problems, but, in fact, they appear, at this point in the analysis, to have exacerbated the fiscal crisis.

Taxis was considered to be a necessary feature in the Roman Empire. However, the reforms, which sought to address social crises, particularly civil wars stemming from usurpations, actually caused another disruption to the ever so valued *taxis*. Essentially the Tetrarchic reforms necessitated further reforms, surely an undesired outcome of the initial legislative intentions. The *cursus honorum* was one of the key features of the Roman Republic's political landscape. Although it diminished in importance over the centuries and its mention in the sources decreases over time, the stability it provided is not to be underestimated. Already at the beginning of the fourth century, in A.D. 317, the imperial court was fully aware of the social crisis the Tetrarchic reforms created. The expansion of the bureaucracy muddled the promotion system and thus caused chaos due to the privileges associated to some honorific titles.

In a law of that same year (A.D. 317), Constantine and his legal team were already confronted with this reality and thus promulgated a law to restore some form of order in the *cursus*. In the confusion, curiales were purchasing ranks such as *perfectissimus*, *ducenae*, *centenae* and *egregiatus* without respecting the due course. Their objective in this instance was "to dodge their civic duties" and that evidently

⁶⁴ See A.H.M. Jones, *The Later Roman Empire*, 284-602, 543-545; 748-753.

included fiscal advantages.⁶⁵ In this same law, the imperial court explains that there is a proper and honourable way to attain these titles. This way involves “paying one’s dues” in the system itself without any form of circumvention. The law also discusses other situations in which one can obtain these honorific ranks, but the curiales are of interest here. The law states if the curiales were to fulfill “all the duties of their native city”⁶⁶ only then would they have a legitimate claim to their honorific ranks.

However, in other cases, the curiales were seeking to explore the new opportunities created by the reforms by buying their way into the expanded bureaucracy. This was far from a novelty. The venality of offices was a political reality since the days of the republic. For example, in the first century B.C., Caesar almost bankrupted himself in the process of securing the office of *Pontifex Maximus*. Suetonius described the vast amounts of bribery and money that was spent in the process.⁶⁷ However in the Roman Empire, the social, economic and political restructuring of centuries-old structures enabled what was surely an astounding amount of cases, for Justinian would issue a cornerstone piece of legislation to address the issue almost six-hundred years after Caesar.⁶⁸ In between, it would be no surprise to find cases of rampant venality of offices. In the same law stated above addressing the fulfillment of curial duties, that particular problem is highlighted.⁶⁹ For the wealthier and more ambitious aristocrats, it should not be a surprise at all to find them in the sources seeking better opportunities, especially when taking into consideration the effectiveness of purchasing offices. This was seen above in the case of Hyperechius when his father, Maximus, encouraged him to seek

⁶⁵ CTh 12.1.5: *declinare suam curiam*. (I here provide my own translation.)

⁶⁶ CTh 12.1.5: *cuncta suae patriae munera impleverunt*. (I here provide my own translation.)

⁶⁷ Suetonius, *Julius* 13.

⁶⁸ Nov. 8.

⁶⁹ CTh 12.1.5: “...comparato suffragio...”

entry into the imperial administration. Not to mention there is another characteristic that is rather noticeable. Money seeks the least amount of resistance and that lesser amount of resistance could be found in the imperial bureaucracy. There were too many lucrative reasons not to stay in the local administration. The ceiling was now raised and therefore an illustrious political career in a city became an early stepping-stone in the scheme of things for more fortunate individuals. Roman culture by necessity changed as a result. What was the civic-minded local elite investing his resources in the city itself and more importantly collecting taxes for the imperial fisc was no more than an intermediate phase in a career.

Hyperechius becomes relevant to another systemic problem in the Roman Empire. As explained above, his pursuit of a career within the imperial administration was facilitated by the assistance of his father, Maximus, and Libanius. Due to his connections and also due to the prestige associated with his family, Hyperechius was able to petition the curia to absolve him from his curial duties. Again, the imperial administration was forced to respond to this undesired release from curial duties. In the case of Hyperechius, due to his family's eminence within the locale, he was able to sever his ties to the curia. Curiously, several decades prior to these events, Constantine issued laws attempting to thwart such movements in A.D. 313, 315 and 326. The emperor sought to eradicate the possibility of exemptions, stating poverty as a possible cause for the petition. Any such petition could no longer be brought before local authorities, but before the imperial court.⁷⁰ Strangely in the case of Hyperechius, poverty was far from an issue and furthermore he could still be excused from his curial duties. Then again, in A.D. 325, Constantine again issued a similar law, but this time prohibiting the movement of curiales

⁷⁰ *CTh* 12.1.1.

from one city to another. The result of such an action would require the curialis to assume the duties of both cities.⁷¹ The imperial government was desperately trying to reform the unanticipated fallout of the Tetrarchic reforms.

What appears to be occurring on the ground is a total loss of institutional control. The reforms necessitated further reforms to address the unmitigated crisis caused by the former. The capital promulgated many laws to address the revenue problems created by the constant flow of wealthy aristocrats into the imperial administration where often they would be immune to taxes and/or to compensate for any deficit in tax collection. Hence, as these same wealthy local noblemen flocked to the more lucrative positions offered by the expansion of the imperial administration, more modest citizens would take their place. Yet, the curiae were still required to meet the same demands fiscally by the imperial court, but without the same taxable resources (i.e. the *principales*). Constantine issued a law in A.D. 320 and then again in 329, which was very telling although it is from a different context:

A constitution was issued which directs that henceforth no decurion or descendant of a decurion or even any person provided with adequate resources and suitable to undertake compulsory public services shall take refuge in the name and the service of the clergy, but that in the place of deceased clerics thereafter only those persons shall be chosen as substitutes who have slender fortunes and who are not held bound to such compulsory municipal services.⁷²

⁷¹ *CTh* 12.1.12.

⁷² *CTh* 16.2.3: Cum constitutio emissa praecipiat nullum deinceps decurionem vel ex decurione progenitum vel etiam instructum idoneis facultatibus adque obeundis publicis muneribus opportunum ad clericorum nomen obsequiumque confugere, sed eos de cetero in defunctorum dumtaxat clericorum loca subrogari, qui fortuna tenues neque muneribus civilibus teneantur obstricti, cognovimus illos etiam inquietari, qui ante legis promulgationem clericorum se consortio sociaverint. (I use C. Pharr's translation here.) *CTh* 12.1.49 also highlights the fraudulent alienation of property in the case of curiales making their way into the Church.

Despite the fact that this law treats the curiales and their entry into Church, there is one important element that underscores the main issue with the institutional crisis caused by the Tetrarchic Reforms. The imperial court is particularly interested here in the affluence of the individuals involved and not only in their assigned civic duties. The less affluent were also barred from entering the Church, but the stress on the assets of the candidate is telling. The central administration was not enthusiastic to see *principales* depart for a career in the Church. The casualties suffered at the local level are further highlighted when Constantius and Constans mandated that any curialis who moved on to another career ought to reimburse the financial losses incurred by the curia due to his departure.⁷³

In A.D. 364, Valentinian and Valens were still attempting to curtail movement into the upper echelons of the imperial administration. In this instance, vast wealth is once again of concern. Entry into the senate required the candidate to possess a handsome sum of money. Moreover, entry into the senate most often involved immunity from taxation. Both emperors in this case reiterate the need for *taxis* in the administrative hierarchy. Any senator had to have fulfilled all curial duties before being officially accepted. In addition, he had to have all the legitimate documents to substantiate the promotion. The mention of this once again underscores the rampant cases of venality of offices and the flagrant disregard of assigned civic duties.⁷⁴ One can only guess the amount of *principales* who made their way into the imperial bureaucracy legally and illegally. The drain on the curiae across the empire must have been ruinous as a result, if there was an insistence on the particular wealth of the curialis and the debt owed to the municipality again and again in the laws. It seems at this point that the imperial court

⁷³ *CTh* 12.1.29; over a decade later (A.D. 353 and 357), Constantius II was still issuing legislation attempting to thwart the movement of curiales (*CTh* 12.1.40).

⁷⁴ For venality: *CTh* 12.1.57.

created a permanent drain on fiscal revenue due to its inability to control the movement within the social hierarchy. The wealthier elements of the aristocracy easily circumvented imperial law to enter the imperial bureaucracy:

Provision has been made not to permit decurions and sons of decurions to cheat the best interests of the municipal councils, even though they should give themselves with real interest to the compulsory duties of the imperial service. When, therefore, they take refuge in the oaths of imperial service only for the purpose of refusing to perform their compulsory duties for the advantage of their municipalities, the falsehoods of such fraud will be easily suppressed. For We have learned that very many of the aforesaid persons have given their names to the imperial service or have resorted to the support of patronage, with the purpose that, after a short time, they might be given honorable discharges...and to the performance of the compulsory public services of their municipalities, they shall direct the attentive care of their zealous minds.⁷⁵

This passage accentuates the point in many respects. First, it highlights the migration's scale from the municipal councils to the imperial bureaucracy. Second, it underscores the wealthy curiales' value to their respective *municipia* (surely financial above all). Lastly, it discusses the methods used to exit the *municipia* honorably in a questionable way (namely social capital). Nevertheless, the control of fiscal revenues was one of the primary objectives of the Tetrarchic Reforms ironically. It appears that the intentions were rational, but the implementation seems to have given rise to a fundamental paradox between theory and practice.

With the Tetrarchs also came the expansion of another institution, the Church.

With the legitimization of its status amongst the Roman pantheon under Constantine, its already considerable growth accelerated. The opportunities it offered were also lucrative

⁷⁵ *CTh* 12.1.43: Includere commodis curiarum decurionibus ac decurionum filiis cautum est non licere, etsi vero adfectu militiae se obsequiis traderent. Cum vero idcirco tantummodo ad militiae sacramenta confugiunt, ut commodis oppidaneis obsequium denegetur, fraudis huius commenta facile comprimentur. Comperimus namque plurimos praedictorum nomen militiae tradidisse vel ad suffragia cucurisse ita, ut post tempus exiguum honesta missione donentur...et muneribus patriae perferendis curam sedulae mentis intendant. (I use C. Pharr's translation here.)

to the curiales of all types. To be specific, in A.D. 313, Constantine absolved all clergymen from curial duties.⁷⁶ However, the imperial government quickly realized how this hindered their ability to exact taxes efficiently. The same emperor therefore reissued another law in A.D. 329, stating that the rich were obligated to fulfill their secular duties and the Church's wealth had to assist the poor. Moreover, those who served the Church, but were eligible to serve the municipal council were to be relocated to the latter.⁷⁷ Therefore one ought to question the lucrateness of a position within the Church. The sources do confirm that a considerable amount of curiales made their way into the clergy. The incentives to leave the city council for the Church, though, are difficult to define. There is not one sole explanation for the occurrences. Nevertheless, one pattern in the sources is rather noticeable: the financial allure.⁷⁸ This can be confirmed by examining the situation from the opposite angle. As it was the case for the migration to the imperial bureaucracy, the central government was alarmed by its loss of revenue stemming from this phenomenon. Eventually, the imperial government would relax its grip over this sort of mobility, specifically to the high clergy.⁷⁹ Though, it must be noted that C. Rapp correctly points out that the phenomenon's explanation cannot be oversimplified with a materialist interpretation.⁸⁰

⁷⁶ *CTh* 16.2.1.

⁷⁷ *CTh* 16.2.3, 6, 7, 9.

⁷⁸ W. Schubert, "Die rechtliche Sonderstellung der Dekurionen (Kurialen) in der Kaisergesetzgebung des 4. Jhs.–6. Jhs.," *ZRG, Röm. Abt.* 86 (1969), 287-333; K.L. Noethlichs, "Zur Einflussnahme des Staates auf die Entwicklung eines christlichen Klerikerstandes: Schicht- und berufsspezifische Bestimmungen für den Klerus im 4. und 5. Jahrhundert in den spätantiken Rechtsquellen," *JAC* 15 (1972), 136-153.

⁷⁹ Valentinian, *Nov.* 3.1. Also, see A.H.M. Jones, *The Later Roman Empire, 284-602*, 745-746.

⁸⁰ C. Rapp, *Holy Bishops in Late Antiquity: The Nature of Christian Leadership in an Age of Transition*, 183-188.

When examining, the migration from the curia to the Church, the latter's requirements were not rigid. Although there was a loose form of a *cursus*, it was not always respected. The sources often tell of men that were not qualified, but still attained the heights of the episcopate. Moreover, the secular way of conducting business carried over into the Church, as political competition was not uncommon. It is then not surprising that cultural, economic and symbolic capital enhanced the chances of those aspiring to be bishop.⁸¹

Therefore, from a broad view, there was undoubtedly some form of incentive to enter the Church. For the more affluent Romans, the high clergy was very lucrative. It offered the power of cultural, economic and symbolic capital. In the case of the high clergy, the fact that simony and nepotism were common testifies that there were many incentives to seek access to the Church.⁸² For some more modest curiales, the Church was an escape. The curia, having lost most of its eminent members, still had to meet the same demands. Hence, the lower clergy and monasteries offered relief. Although, the high clergy may have been a possibility for some, it was not an easy venture considering their lack of capital. The curiales who entered the high clergy would eventually see a

⁸¹ For individuals, who did not have any prior training to be in the clergy: See *PLRE* I, Ambrosius III; *PLRE* I, Nectarius 2; *PLRE* I, Chrysanthus; *PLRE* II, Thalassius 1; *PLRE* II, Cyrus 7; *PLRE* II, Irenaeus 2; *PLRE* II, Ephraemius; *PLRE* II, Isaiah; .For an overview of episcopal competition in Rome, see: J.R. Curran, *Pagan City and Christian Capital: Rome in the Fourth Century* (New York: Oxford University Press, 2000), 116-158. The timeless confrontation between Damasus and Ursinus is one compelling example: Ammianus Marc., *Hist.* 27.3.13; capital and its relation to episcopal candidatures: Origen, *Homilies on Numbers* 2.1; *PLRE* I, Pinianus 2; F.v.d. Meer, *Augustine the Bishop: The Life and Work of a Father of the Church* (New York: Sheed and Ward, 1962), 143-148; P. Brown, *Augustine of Hippo: A Biography* (London: Faber, 1967), 294; C. Lepelley, *Les Cités de l'Afrique romaine au Bas-Empire*, 385-388; L.W. Countryman, *The Rich Christian in the Church of the Early Empire: Contradictions and Accommodations* (New York: E. Mellen Press, 1980), 154-173.

⁸² R. Van Dam, "Bishops and Society," in *The Cambridge History of Christianity: Constantine to c. 600*, ed. A. Casiday and F.W. Norris (Cambridge: Cambridge University Press, 2008), 343-366; P. Norton, *Episcopal Elections 250-600: Hierarchy and Popular Will in Late Antiquity* (New York: Oxford University Press, 2007).

decline in issuances of laws on their social mobility. However, that was not the case for the rest. As one could see in the *Codex Theodosianus* and the *Novellae* of Valentinian and Majorian, the decrease in debit did not occur concurrently. There are institutional reasons for this that will be addressed in a subsequent section. The loss of personnel in the municipal councils, particularly the wealthier elements, could not be compounded by a decline in middling and more humble individuals. Such a deficit was to be avoided: “But We prohibit by the present law that in the future a decurion shall be received for the ecclesiastical ministries, so that fiscal necessities may be fulfilled the more easily by a large number of decurions.”⁸³

The expansion of imperial political culture better describes the movement between the municipal councils and the bureaucracy. The provincial civic-minded elite was the political foundation of the Roman Empire until the Tetrarchic reforms. However, around the turn of the fourth century, the *curiae* in the provinces became increasingly hollow, but nevertheless they still technically formed the foundation of the empire itself. The term flight cannot be used in this particular structural evolution, for the evidence is more layered. The numerous laws issued attempting to control the political hierarchy’s stability show a chronological trend. A. Laniado correctly points this out. In the *Theodosian Code*, the frequency of laws culminates in the fourth-century, particularly at its end, while the fifth-century sees a steady decline. This analysis ends with Anastasius, who himself only published two laws concerning the *curiales* and their social mobility.⁸⁴

The reforms of the Tetrarchs opened the floodgates to uncontrollable social mobility

⁸³ Valentinian, *Nov.* 3.3. (I here provide Pharr’s translation.)

⁸⁴ *CJ* 7.39.5; 10.32.66; for Theodosius II: Theodosius, *Nov.* 3.6; 7.2.1-2; 7.4.2, 5-6; 9; 10.1; 15.1-2; 22.1-2; *CJ* 1.3.21 (=10.32.60); Marcian: *CJ* 1.39.2; 12.2.1; Leo I: *CJ* 1.3.27; 1.36.1; 5.27.4; 10.32.61-63; 12.57.14; Zeno: *CJ* 10.32.64-65; 10.34.3.

mainly geared towards careers in the imperial bureaucracy. However, as decades passed and these positions were eventually filled and even cemented for many families, the debit of imperial legislation slowed to a halt. The central government seemed to abandon its pursuit of control, but, in reality, the social mobility in this area stabilized.

THE INSTITUTIONAL SOLUTIONS

The loss of revenues caused by wealthy curiales seeking promotions into the imperial system was no longer a socio-political problem that needed to be rectified as much as a reality to accept. This further reinforces the notion of a total restructuring of Roman social, political and economic structures. The elite's ambitions within the Roman Empire were no longer quenched by careers in the curiae, but within the verticality of the Roman administration. The central government seems to have accepted this actuality in the fifth century when the aforementioned restructuring of structures had already been accomplished. As a result, it is rather difficult to accept a disappearance of the curiales in the sixth century as M. Whittow and M. Waelkens propose. On the contrary, this most likely occurred after the seventh century collapse(s) when fundamental restructuring took place yet again.⁸⁵ Their institutional value and their numbers may have changed, but their existence cannot be questioned.

⁸⁵ There are several examples of curiales surviving well into Late Antiquity across Europe. Yet, their fiscal role is ambiguous. In Spain, the institution survives into the sixth or seventh century: *Fragmentum Gaudenzianum* 15 (in *MGH Leges Visigothorum* 1.1.471). In this case, the curiales are tasked to manage land transfers as gifts. If none are present, curiales from neighboring cities are to be summoned. The *Liber Iudiciorum* in the *Leges Visigothorum Antiquiores* (LV 5.4.19) task curiales with civic duties also under King Chindasuinth in roughly the mid-seventh century. They were to provide horses to the army and to the crown. Their civic obligations were to be transferred to whomever acquired their land. Seals from Sinope demonstrating the survival of the institution date to the seventh century: Zacos 400, 1462 and 2890. Eulampios, a curialis, is

The increasing silence in the sources with respect to curiales starting in the fifth century is most likely simply due to the restructured social, political and economic structures, which shifted the focus from the city to the imperial center. An attempt to associate silence to disappearance is mere conjecture based upon the notion of a “flight.” Once the premise is accepted, namely that there was a “flight,” the conclusion can be made that the silence in the sources is the result of the “flight’s” climax. The debate has therefore devolved into forcing the association of an assumption with any somewhat correlative evidence. In the same vein, one might faultily associate the closure of the Academy in Athens and the increasing silence about paganism in the sources to the total eclipse of polytheism. Since the curiae did indeed survive in numbers, but not in wealth, and since the city was no longer a foundation stone of Roman political, social and economic culture, it is rather normal not to find an emphasis on the office, as it once was in the Republic or the High Empire. The silence should be associated with the tectonic shift in the fabric of Roman civilization, which occurred with and after the Tetrarchic reforms. A curialis was not a celebrated office as it once was and this is directly related to the decline in construction of civic monuments. Moreover, the exodus of *principales* from the municipal councils is a glaring testimony to the phenomenon. The most telling information in the case of the municipal councils is their sudden diminishment to irrelevance with respect to high culture, but not at all with regard to fiscality. The void at the local level was left unabridged in certain areas until the later fifth and early sixth centuries.

mentioned in Pope Vitalian’s letter to Archbishop Paul of Gortyn in the seventh century: R. Schieffer, “Kreta, Rom und Laon. Vier Briefe des Papstes Vitalian vom Jahre 668,” in *Papsttum, Kirche und Recht im Mittelalter: Festschrift für Horst Fuhrmann zum 65. Geburtstag*, ed. H. Mordek (Tübingen: M. Niemeyer, 1991). Also, see *PL* 87 1003B.

The acceptance of this reality on the ground necessitated new institutional solutions in the imperial fisc's capability to extract taxes. Hence, under the reign of Anastasius, a seemingly cornerstone reform was made, which appears to have restored the Roman Empire on solid financial footing briefly. The creation of the office of *vindex* during the early sixth century may have permitted the imperial government to re-establish some form of financial solvency in the cities.⁸⁶ Two problems stem from the emergence of this office and they are both intrinsically connected. First, its breadth and impact are not easy to quantify. Secondly, the creation of this office is not very well attested in the sources. There are only a handful of literary sources describing its creation, but they are not too sympathetic to the reform itself. Hence, there is a discrepancy between the literary sources and the evidence provided by the Roman economy itself. Procopius writes that this reform enabled the emperor to accumulate a hefty sum of 320,000 lbs. of gold.⁸⁷ However, Procopius' statement is only in part truthful. Anastasius' success was also due to an ensemble of initiatives.⁸⁸ Yet, for the sake of this study, the provincial administration at the municipal level will be the focus.

⁸⁶ In this case, I employ the word "creation" with respect to the office's oversight of fiscal affairs at the municipal level. There is evidence of *vindices* at an earlier period, but the term used may be anachronistic. The duties of this earlier *vindex* are also obscure. For further readings on the matter, see: A. Cameron, "St. Nilus," *GRBS* #17 (1976), 182-183; C. Foss, *Ephesus after Antiquity: a Late Antique, Byzantine, and Turkish city* (New York: Cambridge University Press, 1979), 14-15; V. Mannino, *Ricerche sul "Defensor civitatis"*, Pubblicazioni dell'Istituto di diritto romano e dei diritti dell'Oriente mediterraneo (Milano: A. Giuffrè, 1984), 108-109; A. Chauvot, "Curiales et paysans en Orient à la fin du Ve et au début du Vie siècle: note sur l'institution du *vindex*," in *Sociétés urbaines, sociétés rurales dans l'Asie mineure et la Syrie hellénistiques et romaines*, ed. E. Frézouls (Strasbourg: AECR, 1987), 273-274.

⁸⁷ Proc., *Anecd.* 19.7.

⁸⁸ Anastasius restricted the use of the *coemptio*: *CJ* 10.27.1-2; 12.37.19; an attempt to curb corruption: *CJ* 10.19.9; 12.35.18; 12.37.19; 10.16.13; *Ed. Praef.* 13; implementation of the new tax *chrysoteleia*: Malalas 16.3. Note: there is a debate about the true nature of the *chrysoteleia*.

Not surprisingly, the literary sources that mention the *vindex* are not too enthusiastic about its creation. John Lydus writes that Marinus, Anastasius' Praetorian Prefect of the East:

...paralysed the municipal councils of all cities, by selling the subjects to all at random, if only one were to offer more to him, and instead of the curiales who established the orders of payments, he appointed those whom we call vindices...these officials, who took the contributors for themselves, treated the cities as nothing less than enemies.⁸⁹

The resentful tone of Lydus will be revisited, but for the moment, it is important to note some key elements. Lydus' claim that the curiae were stripped of their political powers is redundant to say the least, as we have seen above. However, there is no evidence to validate the usage of the verb παραλύω.⁹⁰ Surely, the verb is used in this case for rhetorical effect. The curiales had already long become insignificant in a social sense when Anastasius was at the helm. As mentioned above, the office's insignificance was limited to its perception by elite. It had become a stepping-stone that in some cases could be bypassed.

Yet, John Lydus was not the only author to make rather critical comments on this institutional development. John Malalas is similar in his description, but adds a key element: "He was the man who did away with all city council members and created in

⁸⁹ Lydus, 3.49.1-2: ...τὰ μὲν βουλευτήρια πασῶν παρέλυσε τῶν πόλεων, ἀπεμπολῶν τοὺς ὑπηκόους παντί, ὡς ἔτυχεν, εἰ μόνον αὐτῷ τὸ πλεόν ὑπόσχοιτο, καὶ ἀντὶ τῶν ἀνέκαθεν στηριζόντων τὰ προστάγματα βουλευτῶν προχειρίζεται τοὺς λεγομένους βίνδικας...οἱ παραλαβόντες τοὺς συντελεῖς οὐδὲν πολεμίων ἦσσαν τὰς πόλεις διέθηκαν. (I here provide my translation.) There are many sources testifying to the survival of the curiales. For example, see J.-P. Sodini, "L'Asie Mineure," 358.

⁹⁰ The verb is often translated as: to detach from, undo, put an end to, dismiss from, release from, etc. However, M. Dubuisson and J. Schamp use the translation: "[Marinus] paralysa..." Their translation surely follows the argument for the usage of that word proposed by E. Chrysos, "Die angebliche Abschaffung der städtischen Kurien durch Kaiser Anastasios," *Byzantina* #3 (1971), 102.

their place those whom we call vindices for every city in the Roman Empire.”⁹¹ Thus, he does allude to the same meaning Lydus expressed who used *παρέλυσε* when using the verb *ἐπαίρω*. Yet, once again these appear to be hyperboles. Malalas is employing several earlier sources to write his chronicle. It is more than possible that he is using a source or several that reflect the resentment expressed by Lydus and/or other authors. In addition, John Malalas adds the important words “for every city in the Roman Empire” when describing the implementation of the *vindices*. This addition may once again be the result of his sources that are now lost to us, such as Eustathius of Epiphania, amongst others. This raises a significant problem, for the sources are quite thin with regard to the institutionalization of this office. More specifically, they are rather silent about its reach and its application.

Evagrius is the only other known author that does specify the universality of the office’s application. Yet, he is also writing at a later date in the sixth century and thus may be using the same source(s) as Malalas. J.H.W.G. Liebeschuetz proposes that the office was not universal. On the contrary, he argues that the *vindices* were only assigned to troubled cities.⁹² Then again, A. Laniado suggests that the implementation of the office was limited to the Prefecture of the East.⁹³ The sources do not give us any certainty that the reform was instituted empire-wide and thus Laniado does indeed have a tenable argument. There is one law that further reinforces this line of argument and it was issued in A.D. 545. The law is addressed to the Praetorian Prefect of the east and it states that the *vindex* was not even universally applied in the Prefecture of the East, at least in the

⁹¹ Malalas 16.12 (ἐπί+αίρω): ὅστις τοὺς πολιτευομένους ἅπαντας ἐπῆρε τῆς βουλῆς, καὶ ἐποίησεν ἀντ’ αὐτῶν τοὺς λεγομένους βίνδικας εἰς πᾶσαν πόλιν τῆς Ῥωμανίας

⁹² J.H.W.G. Liebeschuetz, "The Origin of the Office of the Pagarch," *BZ* #66 (1973), 41.

⁹³ A. Laniado, *Recherches sur les notables municipaux dans l'Empire protobyzantin*, 29-33.

context of tax collection.⁹⁴ Therefore, both Liebeschuetz and Laniado do indeed propose compelling points about the breadth of the institution. Due to the fact that the evidence is rather thin, there is a distinct possibility that the office was not as widespread and did not entirely revamp the taxation apparatus at the local level. Not only is the evidence insufficient, but also the evidence itself does not support the claims of Lydus, Malalas and Evagrius.⁹⁵ Moreover, the claims of Lydus and Malalas are thus highly suspect regarding the dissolution of the *curiales* as an institution. In this case, the literary authors possess less credibility in the details, for the laws do not validate their rhetoric. It appears that the authors are either using a common source, which is critical of the new office, or they themselves possess a common trait of the period. This trait is the disdain of change and the idolization of tradition. John Lydus' entire work *De Magistratibus* is a great example of this social structure, namely classicism. This will be discussed at length in the final chapter.

Pursuing this point regarding the scope of the reform just above, the *vindex* is not often mentioned in the sources. During the reign of Anastasius, there is one letter written by Severus, Patriarch of Antioch (A.D. 512-518), to Stephanus, the Bishop of Tripoli. The letter was composed when he was patriarch, but the date is unclear. In it, Severus mentions a certain Theodore, the Governor of Coastal Phoenicia. According to Severus,

⁹⁴ Nov. 128.5: ...ἀλλά τούτους οἷς ἐν ἐκάστη ἐπαρχίᾳ ἢ πόλει ὁ κίνδυνος τῆς τῶν δημοσίων ἀπαιτήσεως ἐπίκειται, εἴτε ἄρχοντες εἶεν εἴτε πολιτευόμενοι εἴτε ἐξάκτωρες εἴτε βίνδικες εἴτε καβοννικάριοι ἢ ἄλλοι τινές...

⁹⁵ One of the oddities concerning this innovation is that any mention of the *vindex* largely occurs after the reign of Anastasius. There is no legislative evidence testifying to its creation under the emperor. We are thus only left with rather critical literary sources, which are to a certain extent suspect. They are not uniform in their description nor does the material evidence substantiate the accounts.

Theodore is not only the governor, but also a *vindex* of Tripoli.⁹⁶ Otherwise, many of the references occur after the reign of Anastasius. Yet, this does support the theory that the reform was exclusive to the Prefecture of the East, as Coastal Phoenicia is a province within its administrative area.

Returning to the discussion about the creation of the *vindex*, two other sources allude to the creation of the *vindex*. Evagrius, who has just been mentioned above, also writes a scathing account in which he opines: “The result was that the revenue fell off to a great extent, and the local dignitaries sunk into abeyance.”⁹⁷ His description of the transition within the city’s structure is somewhat different than both Lydus and Malalas, for he strictly mentions that the curia’s fiscal duties were the only ones lost to the *vindices*. He does not mention the municipal councils’ dissolution as an institution, as does both Lydus and Malalas.

To further complicate the discord between the sources treating the inception of the *vindex*, *Novel* 38 states that the creation of the office was designed for one reason that ironically contradicts the statements of Lydus, Malalas and Evagrius. The law dates from the reign of Justinian (A.D. 536) and principally concerns curiales. However, in the *prooimion* it is stated that the *vindex* came about as a result of the curia’s increasing inefficiency at performing its fiscal duties.⁹⁸ Therefore, it is a situation rather similar to this inquiry. The issue of causation is problematic. In this particular chapter, it is proposed that the curiales did not flee the curia, but flocked to the imperial administration. In the case of the *vindex*, the former authors argue that the *vindex* is in some shape or

⁹⁶ Severus, *Sixth Book*, 1.9.

⁹⁷ Evagrius 3.42: “Ὅθεν κατὰ πολὺ οἱ τε φόροι διερρήσαν τὰ τε ἄνθη τῶν πόλεων διέπεσεν. (I here use E. Walford’s translation.)

⁹⁸ *Nov.* 38.

form causing the decline or reduction to obsolescence of the curia. While in the case of this law, the innovation was designed to redress the decline of the municipal institution. With the uncertainty revolving around the creation of the office, it is rather difficult to examine not only its goal and its relationship with the municipal councils, but also, by extension, with Anastasius' monumental success in the area of fiscality. It cannot be argued in these circumstances that the *vindex* was the reason for the accumulation of such a large treasury. There are so many other reforms that were implemented under the same emperor that it is impossible to isolate any of them and then with confidence provide a compelling case for the *vindex*'s impact.

In sum, neither the range of the *vindex*'s presence nor its institutional impact can be remotely quantified with any accuracy. This is further complicated by its presence in the sources, which leaves much to be desired.⁹⁹ We are left at a loss to explain Anastasius' fiscal success. The inability to isolate this particular variable safely renders the discussion rather hopeless. There are so many contingencies in this particular case of the municipal councils that it hinders the conceptualization of a lucid argument. We cannot safely argue that the reform was instated throughout the empire, nor can we determine its fiscal impact by extension. However, the sources do provide us with one important detail that endures little less than a century (i.e. until the seventh century collapse). After Anastasius, the same symptoms re-emerged, particularly beginning with Justinian.¹⁰⁰ Emperor after emperor until Heraclius saw the imperial fiscal house in disarray. Difficulties paying the

⁹⁹ Prior to the reign of Justinian, there are only five individuals who are said to have held the office (*PLRE II, Vindices*). However, two of them are mentioned in the letters of Saint Nilus (*Ep.* 2.282; 2.327). The consensus on these early usages of the term *vindex* has been deemed to be interpolations. See *PLRE II, Dracontius 1; Martyrius 9; A. Laniado, Recherches sur les notables municipaux dans l'Empire protobyzantin*, 30.

¹⁰⁰ Procopius claims that the fiscal woes returned in short order during the reign of Justin I, when Justinian's influence began to take root (*Proc., Anecd.* 19.7).

troops, funding campaigns, purchasing the loyalty or services of tribes, fielding appropriately sized armies, etc. were common. One might recall John the Cappadocian conceptualizing a tax on air (*aerikon*) in a scramble to fuel Justinian's spending spree.¹⁰¹ Then again, there is the episode when Heraclius beseeched Sergius for the Church's precious metals to finance his campaigns against the Persians.¹⁰² Hence, the fiscal impact of the *vindex* may be an overstatement in many cases. Fiscal discipline was not Justinian's forte, but the same cannot be claimed for his successors who were much more stingy with the imperial coffers. As a result, it may be deduced to some extent that the reform barely alleviated, if not at all, the crisis at the local level in the city councils. The other reforms may have masked the symptoms at the local level due to the enormous treasury amassed. Hence the interpretation of scholars was molded by the end result (i.e. the vast treasury) and the interpretations of the sources, however meager they are, with regard to the *vindex* are bent to fit the narrative.

The central government also found another solution, which appears to have been more universal. As discussed above, many curiales found themselves in the Church. When the Empire was struggling with fiscal health, it turned to the high clergy. In some respect, it mirrored the secular institution of the imperial administration with its breadth. Most if not every sizeable city came to have a bishopric. Emperors quickly noticed that bishops could fulfill some secular roles. The fact that some of these high clergymen had previous careers in the imperial bureaucracy further facilitated their adoption into the realm of civil affairs. This may be a compelling reason why, as discussed above, the laws on social mobility between the municipal councils and the high clergy were eventually

¹⁰¹ Proc., *Anecd.* 21.1-2.

¹⁰² Theophanes A.M. 6113, 302.34-303.3.

relaxed. The secular institutional value of the bishop could not be overlooked despite the eventual loss in taxable income that entailed.¹⁰³

The provincial administration, particularly at the municipal level, was in disarray. The developments, which occurred with and after the Dominate, were detrimental to the fiscal solvency of the Roman Empire, despite the fact that the Tetrarchic reforms were conceptualized in part to address financial woes. Instead of addressing this particular ailment of the empire, the reforms themselves had initiated something beyond the scope of intelligibility, at least in that moment. The reforms restructured centuries-old structures that had served as the social, political and economic foundation stones of the Roman Empire itself. In an attempt to gain a firmer grip on the civic governments' taxable resources, the capital actually did the opposite. It entirely transformed the fabric of

¹⁰³ In the *Vie et miracles de sainte Thécle*, there is very little mention of curiales. More emphasis is put on the bishop and clergy. A priest negotiates with Khosrau I for the safety of Apamea: Proc. Wars 2.11.17-23; Theodoret of Cyrus patronized the construction of porticoes, baths and bridges: Theodoret, *Ep.* 79; a bishop of Gerasa was responsible for the construction of the city's prison: P.-L. Gatier, "Nouvelles inscriptions de Gerasa," *Syria* 62 (1985), 298-307. The Bishop of Edessa was in charge of the fortifications' renovations, but the emperor funded the enterprise: Josué le Stylite, *Chron.* 88; the emperor also provided the funds to build fortifications at Birtha Castra, which was overseen by Bishop Serghis Josué le Stylite, *Chron.* 93; in Kom Obo in Egypt, a public place was cleaned at the Governor Arsenius' expense. In addition, with respect to the renovations an inscription reads: "And at the suggestion and dictation and by the virtue of the Bishop...the same place was renewed and rebuilt from foundation to roof...": H.R. Hall, *Coptic and Greek Texts of the Christian Period from Ostraka, Stelae, etc. in the British Museum* (London: British Museum, 1905), plate 1. The Bishop of Philae was involved in the construction of a harbor and fortifications: M.G. Lefebure, *Recueil des inscriptions grecques et chrétiennes d'Égypte* (Cairo: Imprimerie de l'Institut Français d'Archéologie Orientale, 1907), 592-593; 599-603; supervision of construction seems to be more common than actual patronizing as there are other instances in Trebizond: *CIG* 4.8636; *MAMA* 3.106a (= *CIG* 4.8619); in Bostra, the bishop was responsible for securing the funds for public buildings from Justinian after he personally petitioned the emperor through an embassy: *IGLS* 9134; Bishop Ibas of Edessa is said to have had a member of his entourage organize chariot races: J. Segal, *Edessa the Blessed City* (Oxford: Clarendon Press, 1970), 131, 164. For concise surveys of the topic: A.H.M. Jones, *The Later Roman Empire*, 284-602, 90-91; 291; 296; 306; 389; 362; 480; 517; 758-759; 766; C. Rapp, *Holy Bishops in Late Antiquity: The Nature of Christian Leadership in an Age of Transition*, 279-289.

society at the local and imperial levels. The cities once formed the nucleus of the empire, through its ability to tax and administer land in such a vast empire. At the heart of this city lay the civic-minded elite. In many cases, a stellar political career in the curia was the zenith of public life. The curia was itself a socially stratified entity. Curiales came in many shapes and forms economically and at their most eminent were the *principales*. This civic social order endured but morphed into something different, yet that same thing was in many respects unchanged.

With the advent of the reforms of the Tetrarchs, the paradigm entirely shifted. The civic-minded elite was now coveting positions within the newly expanded imperial bureaucracy, which offered much more lucrative careers to the elite. The Church was also an attractive proposition for the elite. As a result, the curia became a disdained stepping stone and in some cases a frustrating obstacle in the pursuit for a much-desired career in the imperial bureaucracy. A career in that area often enabled the local elites to gain tax immunity and also to possess more political power. This in turn enabled families to expand their patronage networks to heights that had never been seen. An elite family, which was once at the helm of a given region, could spread its web throughout imperial administrative institutions and thus wield great influence. Therefore, the office of curialis suddenly became in many respects the minor leagues of a political career. Then again, the provincial *municipia* became an afterthought.

At the same time, this change carried much of the same. Political culture was reproduced in this era of transition. The upper tier of the curiae throughout the empire was progressively emptied. This select elite found itself in more lucrative offices with considerable power, which manifested itself in tax exemptions, interprovincial patronage

networks, the prospects of further promotions in the vast bureaucracy, and other profitable perks. However, one reality persisted. The social and political culture found in the Roman cities was now reproduced on a grander scale. On the one hand, the less influential and less wealthy members of the curia maintained their clout at the municipal level. On the other hand, the more powerful members benefited from their own cultural capital to gain ascendancy into the inflated imperial bureaucracy. The process, which involved the fundamental restructuring of Antiquity's social, political and economic structures, did maintain some of its older features. The cultural capital of the more powerful local aristocrats enabled continuity. A structural reproduction of social hierarchy concurrently occurred with the reforms. The *principales* used their own cultural capital to maintain the hierarchy and this allowed them in turn to preserve their social and political power over the inferior curiales, not to mention Roman culture in general. The fact that the exclusive class of curiales possessed this cultural capital enabled a quick adaptation and exploitation of the new conditions created by the reforms.

The imperial government's intent with the reforms was to magnify its institutional control over the local economies, particularly through taxation. This was amongst other main objectives such as the prevention of systemic mutinies and rebellions in the military. However, the reforms did not achieve the envisaged results. On the contrary, the Tetrarchs had only worsened the situation by enabling unfettered social mobility, in particular an exodus of *principales* from the municipal councils across the empire. The institutional efficiency sought out by the expansion of the imperial administration actually reproduced the curia on a grander scale with the more powerful families of the curiae preserving their exclusive class but in the bureaucracy. The *cursus honorum* was

thoroughly revamped and even more importantly unchained. With the exodus of the privileged class from the municipal landscape came also the departure of this cultural capital, which in many ways had been manifest for centuries in the numerous civic monuments and facilities that the Roman city donned. However, that is another discussion in itself.

Corruption could now reach unseen levels with such a sizeable bureaucracy and the still untamed municipal councils. Powerful families were now even more potent and could use the increased layers between the emperor and the periphery to their own ends. Emperor after emperor in the fourth century issued a panoply of legislation attempting to restrict the emigration from the curiae, particularly the wealthier members. The loss of the wealthier curiales became permanent and as a result the makeshift curiae that remained across the empire were further impoverished by their absence. The fifth century saw a significant reduction of legislation when the dust had settled, but the financial damage was already done and it seemed to be permanent. In the years that passed after the reign of Diocletian, only one specific moment saw some form of hope in the fiscal affairs of the empire. Anastasius' reforms did replenish the coffers, but it appears that the institutionalization of the *vindex* did little to address the financial problems in the cities. Though, the appropriation of the bishop into secular affairs appears to have been wise. Even when the Muslim armies were on the march in the seventh century, the curiae had still not recovered their economic vibrancy. The emperor's powerlessness in the face of this fiscal meltdown was due to the systematic restructuring of what seemed to be everlasting social, political and economic structures dating from Antiquity. The Roman city was no longer the pulse of the imperial system. It became a hollow image of its

former self, as the Roman Empire's efforts to centralize political power demonstrated how this very power was inversely proportional between the center and the periphery. The decline of the Roman city is a testimony to the colossal restructuring of Roman civilization. *Taxis* was undone and the system became unrecognizable. The critical words of such writers as John Lydus and others surely reflect the absolute disdain for this cascading effect of innovations.

CHAPTER III: THE EVOLUTION OF THE ROMAN ELITE AFTER THE TETRARCHIC REFORMS

The Roman city as it was once known had thoroughly changed by the sixth century. A restructuring of the social, political and economic structures began with the Tetrarchic reforms. The provincial elite was not unaffected by this development as the Roman aristocrat came to see a career in public life differently. This very restructuring in many respects transformed the inherent definitions of social, cultural and symbolic capital. Politics were now centered upon the imperial administration, particularly its expanded bureaucracy. The municipal councils, which were under the control of this apparatus, no longer offered the prestige, power and wealth to the affluent provincial aristocrats. The whole development was not only unforeseen, but also undesirable in the eyes of the imperial court. As a result, for approximately one century, the Roman Empire was intent on reversing the development through social engineering, but to no avail. Throughout the process, the Roman Empire still struggled to meet its financial needs. Fiscality was still a pressing issue and this aforementioned phenomenon was directly associated to it. However many woes the imperial court endured, we often still encounter a rather successful upper tier elite in the sources. Therefore, there is a significant lacuna in the understanding of the socio-political development of the period. The disconnect between individual and governmental wealth is undeniable. Hence, in this particular inquiry, in the

context of the early sixth century, the relationship between the provincial elite and the imperial government will be defined.¹

There are many theories treating the evolution of the Later Empire's aristocracy. One particular subject is in many respects bound to the present inquiry and that is the exploitation of land and its social ramifications. Marxist theory is one of the most commonly used methods to interpret the evidence. Both P. Sarris and J. Banaji argue for the emergence of a new aristocracy in the Late Empire. The former proposes that this phenomenon began with the imperial responses to the third-century crisis. This new elite monopolized political power and flagrantly abused it to the point where the Empire suffered irreparable harm. Yet, Sarris' theory largely hinges upon the magnate of the Egyptian great estate; a proposition that is in many respects difficult to accept as an empire-wide phenomenon.² Banaji holds a very similar position on the topic, but focuses much of his efforts on the economy itself, particularly the monetization of the economy, and less on social dynamics, as Sarris. The analysis leads Banaji to conclude that the great estates increasingly caused the dispossession and proletarianization of the peasantry. Moreover, he sees the monetization of the Roman Empire in Late Antiquity as the causative force behind social and political change.³ However, one of the immediate

¹ For an excellent and up-to-date discussion on the scholarly debate concerning the definition of the theme "elite," see J. Haldon, "Social Élites, Wealth, and Power," in *The Social History of Byzantium*, ed. J.F. Haldon (Malden: Wiley-Blackwell, 2009). For another thorough analysis, which is more centered on the period of Late Antiquity, see E. Patlagean, *Pauvreté économique et pauvreté sociale à Byzance, 4e-7e siècles*.

² P. Sarris, *Economy and Society in the Age of Justinian*. Also, see "Social Relations and the Land: The Early Period," in *The Social History of Byzantium*, ed. J.F. Haldon (Malden: Wiley-Blackwell, 2009), 92-111.

³ J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*. Elsewhere, he further elaborates a Marxist interpretation of the subject: *Empires of faith : the fall of Rome to the rise of Islam, 500-700*, 109-144.

problems posed by these interpretations are the conceptualized extrapolations based on Egyptian evidence.⁴

The institutional interpretation of the Late Empire has produced two cornerstone surveys. A.H.M. Jones in many respects followed the footsteps of E. Stein due to similar opinions held in terms of political ideology.⁵ Essentially, both historians provide much coverage of the achievement, which is the Roman bureaucracy of the Late Empire.⁶ Their fascination with respect to the functionality of the Roman administration stands in stark contrast to their treatment of social realities. Both saw the Roman elite as corrupt and self-interested, but paradoxically the bureaucracy was the reason for Rome's survival in the East. This same elite was different in the East, they argue, because the administration was able to safeguard the Empire's interests before those of its individual members, who were for the most part from the aristocracy.

J.H.W.G. Liebeschuetz has also contributed to the institutional interpretation of the topic at hand. In his work, *The Decline and Fall of the Roman City*, there is a strong emphasis on the de-urbanization and on the decline of civic government. He focuses much of his efforts on the relationship between the evolution of Roman institutions and the transforming social dynamics. He argues that the city declined and this was embodied

⁴ Generalizations about the broader administrative fabric of the Empire itself are made through extrapolations from Egyptian evidence. Liebeschuetz also makes this fatal error: "But it is suggested that in broad outline the model of post-curial government of cities by notables that can be constructed for Egypt is also applicable to cities elsewhere in the Eastern provinces of the Empire" (*The Decline and Fall of the Roman City*, 170.) In the case of Banaji, he even goes as far as to postulate that papyri that is yet to be found will confirm the existence of the great estate phenomenon (*Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*, 120-121, 173.)

⁵ P. Garnsey, "Writing the Late Roman Empire: Method and Sources," in *A.H.M. Jones and the Later Roman Empire*, ed. D.M. Gwynn (Boston: Brill, 2008), 29-32; S. Rebenich, "Jones and Continental Scholarship," in *A.H.M. Jones and the Later Roman Empire*, ed. D.M. Gwynn (Boston: Brill, 2008), 49-53.

⁶ E. Stein, *Histoire du Bas-Empire*, trans. J.-R. Palanque, 2 vols. (Bruges: Desclée de Brouwer, 1959); A.H.M. Jones, *The Later Roman Empire*, 284-602.

in the change from municipal councils to oligarchies. Liebeschuetz, however, commits the same mistake Sarris and Banaji would later make. In his analysis of the post-curial government, he formulates his argument out of conjecture:

No attempt is made to prove [the administration of Egypt functioned on the same principles as other regions of the Empire], but it does emerge that that as far as municipal administration is concerned the evidence of the Laws and of the papyri is compatible... But it is suggested that in broad outline the model of post-curial government of cities by notables that can be constructed for Egypt is also applicable to cities elsewhere in the Eastern provinces of the Empire.⁷

Despite, the statement, most of the analysis is indeed executed through extrapolation.

Based on this premise, Liebeschuetz concludes that a long-term institutional development caused “the change from government by decurions to government by notables.”⁸ Though his treatment of the Roman urban and rural landscapes’ evolution is fairly compelling.

Offering a similar opinion to those above, which rest much of the blame for the Late Empire’s failures on the elite, R. MacMullen uses somewhat of a different method.⁹ Using post-modernist theory, he proposes that the elite’s acquisition of unparalleled powers due to the expansion of the bureaucracy accelerated the decline of the Roman Empire. Soft power enabled the destabilization of the social order and of the patronage networks, which resulted in the decline of the army’s size and growing inefficiency of government.

Offering a relatively new method to the field, G. Ruffini’s *Social Networks in Byzantine Egypt* is a pioneering work.¹⁰ Employing social network theory, Ruffini

⁷ J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 170. Also, see ref. 4.

⁸ J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 405.

⁹ R. MacMullen, *Corruption and the Decline of Rome*.

¹⁰ G. Ruffini, *Social Networks in Byzantine Egypt* (New York: Cambridge University Press, 2008). For this method used in Byzantine ecclesiastical history, see A. Schor, *Theodore's People: Social*

identifies different patterns within Egypt itself. As a general rule, he states that the Great Estate was a central hub of its respective nome, which was centralized with respect to its economy. In Oxyrhynchus, he proposes that the urban elite spent most of its time away from its own rural properties. Moreover, he sets forth the argument that this same elite possessed and cultivated vertical connections throughout the network, but links of a direct and horizontal nature were rare. In Aphrodito, however, horizontal links were well established and the social hierarchy was decentralized. If we were to accept his line of reasoning, we would be presented with two rather dissimilar microcosms within Egypt. This would then render the assumptions made by Banaji, Sarris and Liebeschuetz even more problematic.

The problem, which is presented to the Byzantine scholar, is quite daunting. The extraordinary amount of evidence to be found in Egypt is far disproportional from what can be found in other regions of the Empire. Taking into consideration Ruffini's interesting analysis, it can only make the issue even more difficult to those who wish to base their analysis on a premise of applicable universality grounded in one single region's evidence. This then leads to one of the more fundamental works conducted on the issue of the Great Estate. Taking into consideration the contributions listed above, J. Gascou's work still endures despite the literature that followed his groundbreaking paper, "Les Grands Domaines, la cité et l'état en Égypte byzantine."¹¹ This is especially true

Networks and Religious Conflict in Late Roman Syria (Berkeley: University of California Press, 2011).

¹¹ J. Gascou, "Les Grands Domaines, la cité et l'état en Égypte byzantine," in *Fiscalité et société en Égypte byzantine*, ed. J. Gascou (Paris: Association des amis du Centre d'histoire et civilisation de Byzance, 2008). This essay is originally found in J. Gascou, "Les Grands Domaines, la cité et l'état en Égypte byzantine," *Travaux et Mémoires* 9 (1985). In essence, Gascou thoroughly and permanently deconstructed the feudal model set forth by his predecessors. Sarris (2006) then challenged this theory.

after T. Hickey's recent work vindicated the great French scholar's thesis after a barrage of criticisms.¹² This leaves a rather foggy picture of the sixth-century aristocracy.

These are just a handful amongst the numerous scholarly contributions in this area. To begin this inquiry, it is necessary first to accept the limitations due to the evidence-related issue stated above. That is not to state that Egyptian evidence must be ignored. On the contrary, it must be scoured, but it cannot be applied as a universal to particulars, which remain undefined due to lacunae in our banks of evidence. In essence, the scholar cannot state with certainty that any of the particulars belong to the one universal, which is modeled after Egypt. If Egypt were to serve as the archetype to construct the universal while it were simultaneously a particular, the scientific method would entirely be undermined. Essentially, to categorize almost blindly what are many more particulars under such a universal exposes the proposition to a plethora of weaknesses and by extension objections.¹³ The evidence in other geographical regions is often thin, but there are possibly patterns to be uncovered in hagiographies, law codes, epigraphy, seals and narrative accounts. At any rate, it is necessary to determine the relationship between the upper tier elite and the state in the Late Empire. In doing so, it must be determined how different forms of capital evolved, if they did at all. In the following pages, an inquiry will be conducted into Late Roman social, cultural and symbolic capital. Economic capital remains relatively the same, as it is the cumulative amount of economic resources

¹² T. Hickey, *Wine, Wealth, and the State in Late Antique Egypt the House of Apion at Oxyrhynchus* (Ann Arbor: University of Michigan Press, 2012).

¹³ For example, Syria and Egypt were relatively untouched by the ruralization trend of Late Antiquity. Such a dichotomy between rural and urban landscapes inevitably affects the underlying fabric of local culture, which includes social, political and economic realities. For Syria, Egypt and ruralization, see J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 210-211; C.c. Morrisson, "Peuplement, économie, et société de l'Orient Byzantin," in *Le monde byzantin*, ed. C. Morrisson, et al. (Paris: Nouvelle Clio, 2004).

possessed by a given individual. Hence, the focus will largely be on the three forms of capital listed above.

THE EVOLUTION OF CAPITAL: SOCIAL CAPITAL

Economic capital was not addressed directly in the previous chapter, but was only alluded to indirectly. Repeated mentions of the lucrative nature of a position within the imperial machinery as opposed to civic government were made. One of the more interesting developments in Late Antiquity occurs in this particular area. The boundaries, which subdivided the summit of the social hierarchy, shifted. The bulk of the elite could be found in the *curiae* across the empire. Their members did not have the same economic capital, however. The *principales* possessed far better financial portfolios than the rest of their peers. As mentioned in the previous chapter, many if not most of the *principales* found their way into the imperial government after the Tetrarchic reforms. The line, which separated the *principales* from the rest of the elite, became much more pronounced, as they were no longer involved in the same brand of politics. The collection of their actual and potential resources became linked to an elaborate and institutionalized social network, which was the imperial government. However, disparities were to exist within this group as some could marshal more clout than others, depending on the economic, cultural and symbolic capital of those linked to an aristocrat's network. The *curiales* on the other hand was left behind in a much smaller network, comparatively only able to lay claim to very little social capital.

A great example of social capital in action could be found in the famed incident at Aphrodito. In this instance, the exploitation of land and its ownership cannot be

universally applied to the Empire due to the peculiarities of the region and due to the evidence found elsewhere. The incident unfolds in Egypt, but the fact of the matter remains that there are different players within the social hierarchy wielding disproportionate amounts of capital. The episode revolves around taxation and the status of the village, Aphrodito. Dioscorus, who was a *scholasticus* educated in rhetoric, grammar and law in Alexandria, was a native of this very village.¹⁴ Upon the death of his father, Apollos, he became head of his family in A.D. 543 or 544 and was also responsible for the family's land.¹⁵ Dioscorus becomes drawn into the incident due to the fact that he held the title of *πρωτοκομητής* of his village.¹⁶ One of the central points of tension lies in the official fiscal status of Aphrodito. The village was able to collect its own taxes and submit them directly to imperial officials without the intervention of a *curia*. This civic right in question is called *autopragia*.

This appears not to be well received in the region, as pagarchs were in charge of taxation duties in the neighboring areas. The institution of the pagarchy appears to have been an integral part of the Egyptian taxation machine. As was the case with *curiales*, the pagarch was held liable for any shortcomings during tax collection. To aid in the accomplishment of this duty, the pagarch had a staff. With respect to the candidacy, powerful men of the province, including magnates and ex-officials, elected pagarchs.¹⁷ After the Praetorian Prefect or the governor appointed the candidate, the emperor ratified the nomination. The provincial governor delegated instructions to the pagarchs, but the office itself was accountable to the emperor. Moreover, only the emperor could terminate

¹⁴ *P. Cairo Masp.* 67064.

¹⁵ *P. Cairo Masp.* 67127; 67087; 67088; 67116; 67118; 67130.

¹⁶ Translated as "head of village"; *P. Cairo Masp.* 67128; 67094; 67067; *P. Lond.* v 1661; v 1682.

¹⁷ J. Gascou, "Les Grands Domaines, la cité et l'état en Égypte byzantine," 61-75.

a pagarch.¹⁸ The distinctiveness of the position was its status. It appears that the office was in some ways civic due to the “election,” and in other ways imperial for its accountability.

Returning to Aphrodito, in A.D. 551, two pagarchs from Antaeopolis, Julianus and the *gloriosissima* Patricia seemingly attempted to infringe upon Aphrodito’s autonomy. This was not a novelty, as similar events occurred when Apollos, Dioscorus’ father, was πρωτοκωμητής in A.D. 540. He travelled to the capital to petition the imperial government on behalf of the villagers, who were complaining about local pagarchs. These very pagarchs allegedly exceeded their jurisdiction. Apollos thereupon received the official protection of Empress Theodora for the village.¹⁹ In an imperial rescript of A.D. 551 to the *dux* of Thebaid responding to Dioscorus and his village’s petition, Emperor Justinian provides the details about the scandal. The rescript’s main intention was to confirm the village’s status (*autopragia*) to repel the pagarchs from assuming the taxation control of the village. The Emperor mentions an incident that occurred when his father, Apollos, was in the capital. The μεγαλοπρεπέστατος Theodosius collected and kept the taxes of Aphrodito. Justinian strangely admits that Theodosius’ conspiracy outdid his imperial commands.²⁰ Unfortunately for Dioscorus and the village, imperial officials were sent to collect the taxes once again to “resolve” the situation. This episode in which fraudulent taxation occurs seems to be more common than one might think in

¹⁸ *Edict* 13.12, 25. For an excellent analysis of the pagarchy, see R. Mazza, "Ricerche sul pagarca nell'Egitto tardoantico e bizantino," *Aegyptus* 75 (1995), 169-242.

¹⁹ P. Cairo Masp. 67283.

²⁰ P. Cairo Masp. 67024.15-16: “...αλλα την εκεινο ὠεριδρομην ὦλεον των ημετερων ἴσχυσαι κελευσεων...”

Egypt, as the Emperor specifically denounces the practice elsewhere.²¹ The emperor emits an aura of powerlessness in this context. His authority, however vertical it might have been, was impeded. Theoretically his power was at the summit and emanated to the periphery through this verticality, but this was not always the case, as might be noted here.

The conflict appears to have continued in some ways similar to a vendetta. Julianus had already locked horns with Dioscorus years before, over the latter's inheritance tax.²² The situation devolved rapidly for Dioscorus after his initial victory over his inheritance. His father had developed important political connections with a certain Flavius Ammonius. He was a powerful man who gained the titles of both *vir gloriosissimus* and *comes sacri consistorii*, and had considerable wealth and land.²³ However, Aphrodito's patrons, Empress Theodora, Ammonius and Apollos died and left the village fully exposed to the ambitious pagarchs. Moreover, the status of the pagarch seems to have been enough to thwart Justinian's intervention and even Theodora's. Julianus was attempting to "annex" Aphrodito to his pagarchy.²⁴ Dioscorus, who was still at a disadvantage in the face of local officials, was now in a complete position of weakness.

²¹ *Edict 13*: in the *prooimion*, Justinian specifically denounces the practice in Egypt where local officials would intentionally pocket collected taxes and then tamper with the investigation when imperial authorities were alerted. This in many respects demonstrates the sheer disconnect between periphery and center despite the bureaucracy that was intended to bridge it. For the disconnect between center and periphery: C. Kelly, "Emperors, Government and Bureaucracy," 138-183.

²² P. Cairo Masp. 67026.

²³ *PLRE* 3, Fl. Ammonius 1.

²⁴ The initial complaints occurred between the years A.D. 548 and 551, triggering Dioscorus' second trip to the capital in 551. P. Cairo Masp. 67019 contains the initial complaint to the Emperor about Julianus' designs. However, P. Cairo Masp. 67024 demonstrate a lack of resolution. In P. Cairo Masp. 67283, Theodora is warned about Julianus' intent to annex the village.

In many ways, Dioscorus' trip to Constantinople demonstrates how strongly the scales had tipped to his disadvantage. Not only is there evidence of him petitioning the imperial government to rectify the political turmoil, there is also a sudden spike in composition, particularly of poems.²⁵ The intent of his poems is rather clear: to flatter his audience. The ulterior motive can be deduced from the circumstantial evidence listed above. Dioscorus had very little social capital at this point. His attempts to plug into new social networks, which were of value to his political goals, would remedy the deficiency. No longer was he in a defensive posture as he was prior to the recent deaths. He and his village found themselves to be easy prey. The pagarchs in Antaeopolis became much more confrontational and aggressive in the pursuit of their objective.²⁶

The story above is much abbreviated, but it captures the essence of social capital in the sixth century. Local politics often remained local prior to the Tetrarchic reforms. Feuds and such would be resolved locally or perhaps with the intervention of the imperial judicial system. Social capital was always at a premium. However, with the expansion of the imperial government, matters became much more complex. Social capital evolved and took on a whole new scale. The institutionalized acquaintances that developed simultaneously with the bureaucracy enabled a village to fend for itself by acquiring patrons that could intervene on their behalf. Yet, this capital was not only defined by a social web comprising of institutional relationships, but of the office held. This office had to be acquired with social capital, as it was in the case of Menas, who eventually

²⁵ For the texts and their details see J.-L. Fournet, *Hellénisme dans l'Égypte du VI^e siècle: la bibliothèque et l'oeuvre de Dioscore d'Aphrodité*, 2 vols. (Cairo: Institut Français d'Archéologie Orientale, 1999), 1.378-389.

²⁶ *P. Cairo Masp.* 67002: in A.D. 567, complaints are made about the pagarch Menas, who replaced Patricia and was once her *dioiketes*, and Count Serenus. For other complaints about Menas regarding this conflict, see *P. Lond.* V 1677 and *P. Cairo Masp.* 67021.

succeeded his patroness, Patricia. Or even in the case of Dioscorus, we might note an inherited office of *πρωτοκομητής* and a relationship with a powerful aristocrat.²⁷ However, the ability to acquire an office such as that of a pagarch enabled an individual to possess near institutional immunity. Not only did the pagarchs in Antaeopolis assault the fiscal status of Aphrodito several times, but they also ignored the fact that Justinian and Theodora were involved. Their titles garnered such an amount of social capital that a man like Theodosius would not succumb to the imperial hand of law. Moreover, as mentioned above, Constantinople appeared to be impotent in the face of corruption at the local level in Egypt; at the very least, the link between periphery and center left much to desire. The *prooimion* of *Edict 13* demonstrates to what extent corruption plagued Egypt.

In the case of Aphrodito and Dioscorus, the network of relationships hinged upon three powerful political figures, which included Justinian, Theodora and Ammonius. Particularly Theodora and Ammonius appear to have been the guardians of the city, notably with respect to its independent fiscal status. While the village and Dioscorus were surely on the low end of their patrons' networks, their ability to mobilize a considerable amount of resources was vital to the maintenance of its status, not to mention Dioscorus' livelihood. Unfortunately for Dioscorus, his network and that of his village's quickly dissolved once Theodora and Ammonius passed. In this case not only is social capital useful to a given man or village, but vital in a political conflict. This is why we might note the sudden output of encomia in the form of poetry. Furthermore, Dioscorus was attempting not only to maintain his village's defense against the pagarchs, but he was

²⁷ E.R. Hardy, *The Large Estates of Byzantine Egypt* (New York: Columbia University Press, 1931), 51 ff. ; J.-L. Fournet, "Un nouvel épithalame de Dioscore d'Aphrodité adressé à un gouverneur civile de Thébaidé," *AnTard* 6 (1998), 65-82; G. Ruffini, *Social Networks in Byzantine Egypt*, 156, 173-177.

also vying for his own safety.²⁸ As the situation became increasingly dire, Dioscorus called upon the *dux* of Thebaid to intervene, but to no avail. We finally find Dioscorus without a viable group to mollify the situation and, as a result, he joins the office of the *dux*, as a *nomikos*.²⁹ There seems to have been no other resort, for he no longer had the social capital to thwart or to undo the machinations of his political adversaries. Therefore, the pagarchs went unchecked due to the defenselessness of his village and of himself.

One might contend that this is not a novelty. Patronage was always a distinct feature of Roman civilization. That is indeed accurate. However, the expansion of the bureaucracy revamped the social hierarchy's structure. The new development exhibited itself in many different areas, but, particularly here, it is reified in social capital. One's office, family and acquaintances, whether familial, useful or institutional, are irrevocably related to the amount of actual and potential resources a given individual possessed. The growth and power of the imperial government was inversely proportional to the fate of civic politics. This development helped usher in a new reality. No longer were local aristocrats drawing the lines between political factions within the city. The Roman Empire was composed of a series of microcosms, that is, an amalgamation of cities. With the fundamental reforms initiated under the Tetrarchs, the expanded verticality inflated this network system to unprecedented levels. This paradigm shift caused the social networks to become increasingly more formidable in the political field. Great ambitions were easier to realize by twisting arms or by flattering of individuals in or outside one's

²⁸ In *P. Cairo Masp.* 67002, thirteen landholders of the village are imprisoned due to the conflict. In it, Dioscorus also tells that his life in Antaeopolis is a form of exile. It is also revealed in *P. Lond.* v 1677 that Menas seized Dioscorus' land and redistributed it to his associates. Moreover, he demanded that Dioscorus pay taxes on the seized lands. Bell proposes that his other holdings were not affected (*Greek Papyri in the British Museum*, 5.69).

²⁹ L. MacCoull, "Dioscorus and the Dukes: an Aspect of Coptic Hellenism in the Sixth Century," *BS 13* (1986), 30-40.

network. These networks and the imperial bureaucracy more often than not overlap. Thus, a local notable's best recourse might be an official in the provincial capital and a senator, while the two latter also have their own series of acquaintances. The more powerful the acquaintance, the more intricate and formidable the network, the more a given agent within the grid has useful relationships from which a situation like Dioscorus' may be resolved effectively and swiftly.

These relationships require maintenance and create a mutual acknowledgment through numerous types of exchanges. For one to be admitted, the beseeched must be benefitted. It might be in the form of a flattering poem in the hopes of receiving the protection of a notable, as it has been discussed above with Dioscorus. Effectively, it creates a sense of belonging to a certain group through the possibilities to pool one another's resources in the case of peril, for example. In sum, this phenomenon granted the aristocracy the opportunity to assume immeasurable power.³⁰ The words of Emperor Justinian echo this reality in *Edict 13*.³¹ The imperial government no longer contended with powerful notables at the local level. That alone was problematic for the capital. The evolution of the political and social dynamics exacerbated this reality, as these aristocrats could defy the will of the emperor without reprimand in some cases.

³⁰ See *Nov. 30*, for example, in which there is mention of corruption at the regional level. The imperial government denounces the common behavior of corrupt magnates exploiting the *res privata* and *domus divinae*. For further discussion, consult: A. Cameron, *The Mediterranean World in Late Antiquity, A.D. 395-600* (New York: Routledge, 1993), 81-103; J. Haldon, "Economy and Administration," 28-59. For the pagarchy's power, see J. Gascou, "Pagarchie Collégiale en Égypte byzantine," 49. This was originally published as "Pagarchie Collégiale en Égypte byzantine," *Byzantion* 42 (1972). Gascou states that one particular characteristic of the pagarchs amongst others is that they were "propriétaires fonciers à la tête d'oïkot, de maisons immunistes." Rémondon thoroughly underlines this development with respect to the public post system, police and civic magistracies in "Papyrologica: PSI, V, 472; P. Bodl. d 54; P. Lond. III, 982; P. Herm. Rees 79; P. Goth. 9; P. Vars. 31," *Chronique d'Égypte* 41 #81 (1966), 173-178. The power could be so great that aristocrats could still use the military for private purposes: *CJ* 9.12.10; *Nov.* 116.

³¹ As discussed above, see the *prooimion* of *Edict 13*.

When taking this all into consideration, we might note glaring problems with P. Sarris and J. Banaji's theories concerning the Late Antique elite.³² The focus on landholding in many respects discounts the importance of many other determinants. The insistence on land and the power derived from it ignores some of the more fundamental issues in Late Antique society. The emphasis on the logics of the economy falls short on its dismissal of other forms of capital.³³ Economic capital does indeed give power, but can leave a particular agent vulnerable nevertheless. Dioscorus, although a powerful man in his microcosm, was insignificant in the grander scheme of things. Social capital may be a derivative of economic capital, but that equation can easily be inversed. Economic capital can be derived from one who is fortunate enough to be in the right social group. That is not to mention that other forms of capital, which pose fundamental challenges to a materialist interpretation. The institutional failures here are paramount. The imperial government's verticality, which was a creation of its own, enabled a total disconnect between the periphery and center while its objective was the opposite. To provide an analogy, the imperial government's solutions often fail because it introduces the cane toad to control the cane beetle.

THE EVOLUTION OF CAPITAL: CULTURAL CAPITAL

One must also take into consideration cultural capital, which is often a causative determinant. Cultural capital in Late Antiquity involves somewhat of a novelty. The

³² P. Sarris, *Economy and Society in the Age of Justinian*; P. Sarris, "Social Relations and the Land: The Early Period," 92-111; J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*; J. Banaji, "Aristocracies, Peasantries and the Framing of the Early Middle Ages," *Journal of Agrarian Change* 9 #1 (2009), 59-91.

³³ See Chapter 1 for further discussion.

individual's know-how can be an important factor in its accumulation. Other fundamental characteristics include institutionalized titles and the possession of artifacts, which possess inherent cultural value. The former may consist of titles such as *spectabilis* or those obtained through education such as Dioscorus.³⁴ Yet, these characteristics are valueless if they are not recognized nor perceived by other social agents. With respect to the heuristic characteristic, evidence is rather compelling during the reign of Emperor Justinian.

What we might note as a new development during his reign is the imperial government's insistence on selecting candidates to important offices, based on meritocratic principles. It is a novelty in the sense that it seemed to be more of a policy.³⁵ To better understand Justinian's appointments to high offices based on meritocratic principles, it is important to understand why the designee is of utmost importance. Justinian was a very ambitious man with regard to his grand design as emperor. A tremendous amount of expenditures were made in many areas. One of the hallmarks of his reign cost a tremendous amount to the imperial coffers. Hagia Sophia's silver-leaf revetment required 40,000 lbs. of silver, while the silver for the altar, the ciborium, the chancel, the ambo, the *synthronon* and the doors approximately 35,181 lbs. of silver.³⁶ E. Stein estimates the whole enterprise cost the imperial government between 1.04 and 1.3

³⁴ As noted above, Dioscorus obtained the title *scholasticus*. See above and also *PLRE* 3, Dioscorus 5.

³⁵ I here differentiate Justinian from Anastasius' appointments due to the origins of the appointee. Although, the Praetorian Prefect of the East Marinus appears to have been chosen based on merits, we do not know his pedigree. See *PLRE* 2, Marinus 7.

³⁶ M. Mango, "The Uses of Liturgical Silver, 4th-7th Century," in *Church and People in Byzantium*, ed. R. Morris (Birmingham: Centre for Byzantine, Ottoman and Modern Greek Studies, University of Birmingham, 1990), 245-261.

million solidi.³⁷ This is but one structure, albeit one of the most costly, in his building campaign. These figures are very considerable when examining the cost of the Vandalic Expedition in A.D. 468, which Procopius lists at 1,300 centenaria.³⁸ Then again, the Fifty Years Peace, which was agreed to by Justinian and the Sassanids in A.D. 562, was said to have cost the Romans 30,000 solidi per year.³⁹ Taking into consideration the enormous amount of spending, the appointment of an official such as the Praetorian Prefect of the East was of utmost importance. The man who took the office was asked to do the impossible. Balance his superior's ambitions with a dire fiscal reality.

The Praetorian Prefect had become in essence a financial official of the first order and a prime minister for the emperor. Two Praetorian Prefects of the East, who were as notorious as they were effective at performing their duties, serve as great examples. John the Cappadocian is peculiar in this sense due to his origins. We do not know much about his pedigree, but there is one element that appears to be very revealing. Procopius, although scathing in his account, reveals that the Cappadocian “was entirely without the advantages of a liberal education; for he learned nothing while attending the elementary school except his letters, and these, too, poorly enough...”⁴⁰ H.B. Dewing here uses “liberal arts” for the term “παιδείας” in the text. Although tangible evidence is not available, there is circumstantial evidence from which it can be deduced that this rhetorical attack on the Prefect's intelligence is mere character assassination.

³⁷ E. Stein, *Histoire du Bas-Empire*, 2:459-460.

³⁸ Proc., *Wars* 3.6.2. Also, see K.W. Harl, *Coinage in the Roman Economy, 300 B.C. to A.D. 700* (Baltimore: Johns Hopkins University Press, 1996), 176. He lists a range between 7.5 and 9.5 million solidi.

³⁹ Men. Prot., frg. 2.

⁴⁰ Proc., *Wars* 1.24.12.

In both the *Wars*, and in the *Anecdota*, the author relentlessly smears the Prefect.⁴¹ Hence, it should come to no surprise that Procopius would take every liberty to disparage John's intelligence when given the opportunity, however false the insults or accusations might be. His account of John's education and intelligence, and his outstanding heuristics demonstrate a clear contrast. Whereas he states that John did not receive the traditional education for the aristocratic young man, he then takes full liberty to use this fact to manufacture an *ad hominem* attack. For *paideia* was a hallmark of the Roman aristocracy and therefore the lack thereof can serve as a contrasting tool and as an opening for derision. This system of education was a paramount form of cultural capital, almost exclusive to the elite. In other words, it is a key marker of social status. Then again, it is also a form of symbolic capital in Roman society. *Paideia* was universally regarded as a determinant of one's prestige within the social arena. Procopius targets this particular gap in John's resume due to the fact that he is being viewed as an outsider to his new social group.⁴² He does not have the same amount of capital as others do within high society. John's only claim to fame, in the eyes of Procopius, is his ability to execute his tasks skillfully.

Then again, Procopius was not the only one to attack John the Cappadocian vehemently. John Lydus was as scathing as the Caesarean in his treatment. Although we do not know in detail the lives of both ancient authors, there are very important pieces of evidence, which provide circumstantial evidence. Both were highly educated and thus the

⁴¹ Two examples amongst many of Procopius' contempt for the Cappadocian: *Wars* 1.25.3 and *Anecd.* 22.

⁴² The term "class" used here and throughout is defined as a group of agents within the social arena. A given group possesses similar amounts of capital and similar dispositions. Economic capital is but one of the fields. Other fields are not necessarily motivated by the gain of economic capital. They can be motivated by such other things as prestige. As such, class does not exist in an objective sense due to the disparity between theory and perspective.

likelihood of them being from relatively well-established aristocratic families is not negligible. Procopius only once mentions his family in his explanation for producing the contrasting literary piece that is the *Anecdota*: “Indeed, I was unable to feel confidence even in the most intimate of my kinsmen.”⁴³ This subtly reveals that members of his family also had their own powerful social networks. As it has been noted above, social networks are indicators and generators of capital and thus power. There are other indications of Procopius’ wealthy background scattered throughout the sources, as he is said to have been a lawyer and rhetorician.⁴⁴

Despite the repeated attacks against John the Cappadocian, Procopius cannot hide the one telling fact about his subject’s character. Sandwiched in between the tirade cited above, the author writes: “...but by his natural ability he became the most powerful man of whom we know. For he was most capable in deciding upon what was needful and in finding a solution for difficulties. But he became the basest of all men...”⁴⁵ This passage clearly contradicts Procopius’ statement about John’s intellectual capacity. It would not have been possible for a man with little intellectual prowess to climb the bureaucratic ladder to such heights. Moreover, this same passage also indicates that the Cappadocian’s heuristics enabled his rise to power. John Lydus indicates that John the Cappadocian rose through the ranks first as a *scrinarius* of a *magister militum*, where he entered Justinian’s entourage. He thereupon became *logothete*, a senator (*illustres*) and finally Praetorian Prefect of the East, respectively.⁴⁶ Indeed Procopius was correct in his appraisal of John’s skills, but his treatment of John’s “lack” of education is a half-truth. It is not surprising

⁴³ Proc., *Anecd.* 1.2.

⁴⁴ Men. Prot., frg. 27; Agath., proem. 22, 32; 2.19.1; 4.15.1, 26.4, 29.5; 30.5; Evagr. *HE*, 4.12, 19; 5.24; Suid. II.2479.

⁴⁵ Proc., *Wars* 1.24.12-13.

⁴⁶ Lydus, *De mag.* 3.57.1-3.

that John received a rudimentary education. It is unlikely however that he did not receive further education due to lack of intelligence. On the contrary, there is a very distinctive possibility that John's family did not have the resources to support such an endeavor.

John the Cappadocian's story offers us a considerable amount of insight into the development of social relations in Late Antiquity. His distinctive know-how, which Procopius begrudgingly mentions, enabled him to acquire immeasurable cultural capital. This in turn enables what appears to be a man from an obscure family that seems to lack distinction to enter the bureaucracy and obtain arguably the most powerful position in the Roman Empire, short of the imperial throne. In sum, Procopius seems to be resentful of John the Cappadocian's rise to power due to a combination of elements. On the one hand, in Procopius' mind, he himself did everything that was expected to garner prestige and rank in Roman high society. He did well and made his way into the entourage of the highest circles. However, he did not become a Praetorian Prefect, a Count of the Sacred Largesses nor did he become any other official of the highest order. On the other hand, he views John as one who bypassed the system of unwritten rules and procedures, which he himself respected and followed. It was something that seemed to defy the logic, which he had inherited, and perhaps he felt cheated as a result. This would explain the vitriol-laden passages referring to the Cappadocian.

Procopius is not the only author to hold John in such high contempt. John Lydus' is rather similar to the Caesarean with regard to upbringing. He too was a product of the *paideia* system. Leaving Philadelphia for the capital, he intended to become a *memoriales* under the authority of the *magister officiorum*. This is by no means the ambition of a commoner. But while awaiting his post, he studied under the philosopher Agapius.

However, once again, he was distracted, but this time by a friend who obtained high office. Zoticus became Praetorian Prefect of the East and asked that he be his tachygraph. Lydus enriched himself in the process. Furthermore, to reinforce his place in Zoticus' social network, he admits writing a panegyric for his patron for which he was handsomely rewarded. This was not the only time, as he also delivered a eulogy to Emperor Justinian.⁴⁷ At any rate, Lydus' resume is considerable.⁴⁸ When writing about John the Cappadocian, Lydus appears to be as resentful as Procopius concerning the Cappadocian's pathway to power. His description of John's rise to power includes such idiomatic expressions as ὡςπερ κατ' ἐπιβάθραν and ἀθρόως εἰς τὴν ὑπαρχον ἀνηπάσθη τιμὴν.⁴⁹ The diatribe continues with Lydus' sharp tongue maintaining if not increasing the tone.⁵⁰ There is a striking similarity between Procopius and Lydus' accounts of the Cappadocian. They are filled with resentment and even a subtle hint of jealousy. The latter may be found by reading in between the lines. Lydus' words used to describe the Cappadocian's rise seem to confirm this. Once again, the author followed the standard operating procedures, as did Procopius but saw himself outdone by an outsider. He saw his opportunities grow upon his arrival in the capital, but never actually attain the heights he surely coveted. Just as Procopius, he was born into an aristocratic family, received the highest education and offered his services to the imperial government. He had all the necessary assets to be successful. He therefore saw this man from Cappadocia as a cheat to the system, which he cherished. However this very man from Cappadocia possessed a characteristic, which stood out from the typical Procopius, Lydus and all the other

⁴⁷ Lydus, *De mag.* 3.26-3.27.2; the eulogy: 3.28.3-4.

⁴⁸ See Lydus, *De mag.* 3.26-30; *PLRE* II, Ioannes 75.

⁴⁹ Lydus, *De mag.* 3.57.3.2, 4. The expressions signify "just as with a stool" and "all at once he was carried off to the honorable office of Prefect," respectively. (I here provide the translation.)

⁵⁰ Lydus, *De mag.* 3.57 ff.

aristocrats that were cut from the same mold. The ability to get the task at hand accomplished effectively was prized by Justinian. The account above is eerily similar to Peter Barsymes with respect to ascension and infamy.⁵¹ Writing encomia, literary works, being tutored by famed philosophers or attending law school in Berytus were commonplace in Roman high society. These were part of the obstacle course on the way to grander things.

Procopius' disdain of new men can be confirmed in a few places. When he discusses the tenure of office of the Praetorian Prefect of the East, he declares that all were rapacious "with only two exceptions, namely Phocas...and Bassus..."⁵² Not by coincidence, Phocas is known to have been ἀνὴρ εὐπατρίδης,⁵³ but we cannot say as much for Bassus whose pedigree is unknown.⁵⁴ However, we may deduce that he was indeed part of the Roman elite as were Phocas, Procopius and John Lydus. Surely they did not receive as much negative attention from the pen of Procopius due to the affinity. The ancient author then pursues his narrative and in many regards his contempt for new men is confirmed when he discusses the methods by which the emperor selects candidates for office: "...Justinian's method was as follows. Picking out the basest men..."⁵⁵ Procopius' sentiments about new men entering the administration with the least common cultural capital, that is of the heuristic type, are very effectively summarized in the two previous passages.

⁵¹ Peter Barsymes, however, was a banker before obtaining the offices of Praetorian Prefect of the East and *Comes Sacrarum Largitionum*. For his career, see: Proc., *Anecd.* 22.3-6, 33; Justinian, *Ed.* 7.6, 11, *Nov.* 134, 159. For the invectives, see: Proc., *Anecd.* 22.5-9, 17-18, 25, 36; 25.20

⁵² Proc., *Anecd.* 21.6.

⁵³ Lydus, *De mag.* 3.72.

⁵⁴ *PLRE* 3, Bassus 4.

⁵⁵ Proc., *Anecd.* 21.9: "πονηροτάτους."

The cases of the Cappadocian and Barsymes appear to be a novelty to some extent. Such things were seen particularly in the fifth century when Germanic and other foreign warriors made their way into the high ranks of the Roman army.⁵⁶ Yet that was not as much of a breach of standard operating procedures as it was in the cases above. Interestingly, the heuristics of these warriors afforded them such honors. Moreover, the fact as they were portrayed as destructive outsiders seems even more similar to John's case. The Cappadocian was far from a typical member of the "boys' club." He was an outsider based on the norms of social space and not cultural or religious ones. Here, we have a clear example of the causality of cultural capital in which economic capital is but a derivative. Thus, once again, it is rather difficult to accept a premise in which economic capital is the unique prime mover in Late Roman society. Furthermore, one must remark the other elements in John's story that add to the difficulties in accepting such an interpretation. John's social class clearly did not in any way hinder his meteoric rise to power. Furthermore, his class did not grant him his opportunities. On the contrary, at best, the Cappadocian may have been from an aristocratic family of humble origins or from a family of merchants. His family did not have the resources to have its son educated in the traditional aristocratic way. His effectiveness at executing bureaucratic tasks enabled him to add one of the most significant agents to his network, the Emperor. A combination of know-how and networking enabled this uncanny rise to power.⁵⁷ In this equation, economic capital is relegated to a derivative, while cultural capital serves as the foundation.

⁵⁶ Aspar serves as one of the many examples of this phenomenon. For a good analysis of his rise and fall, see B. Croke, "Dynasty and Ethnicity: Emperor Leo and the Eclipse of Aspar," *Chiron* 35 (2005), 147-203.

⁵⁷ Once again, I must underline the fact that Marinus's biography does not provide any evidence of humble beginnings, as is the case for John.

There is one last important subtheme to examine under this subject. Education has been mentioned above in the context of Procopius and John Lydus careers. Education per se was still and even more so a form of cultural capital during the period. Education enabled both authors to obtain rather important offices. Lydus maintains that men of letters were prized. He would soon find a patron in Emperor Justinian.⁵⁸ That is one example amongst many others. We have already visited Dioscorus above, who utilized his education to seek new patrons after his social network collapsed. Otherwise, there is the story of Evangelos of Caesarea, whom Procopius mentions in his *Anecdota*. He was a well-accomplished lawyer who amassed such a considerable sum that he was able to purchase a village called Porphyreon in Palestine.⁵⁹

One persisting structure in Antiquity was the value of education, more specifically *paideia*. It enabled many to obtain the patronage of powerful men and women from the realm of politics, amongst others. However, with the expansion of the imperial government, patronage was indeed prevalent but not for the same reasons. Before, the individuals who patronized educated men obtained symbolic capital, as that was more of a commonality. With the need for well-trained individuals in the bureaucracy, figures such as Tribonius were valued. Tribonius was a standout product of the great law school of Berytus.⁶⁰ His talents were noticed and consequently he soon became part of the imperial bureaucracy. He first served as a lawyer under the Prefecture of the East, before he was commissioned to compose the *Codex* along with other legal experts. His erudition

⁵⁸ Lydus, *De mag.* 3.28.3-5. Here I believe Schamp's misreads the text. He translates the passage as: "...la Fortune faisait grise mine aux gens munis d'une formation en lettres, je pris le service en grippe et je me donnai (sic) entièrement à mes livres." The central word in my point of contention rests on his translation of *στρατείας*.

⁵⁹ Proc., *Anecd.* 30.17-19. Unfortunately for Evangelos however, Procopius tells us that Justinian scrutinized his purchase and thereupon bought back Porphyreon at a lower price.

⁶⁰ Proc., *Wars* 1.24.16; Lydus, *De mag.* 3.20.

then gave him access to high posts in the imperial government. He was twice quaestor and once *magister officiorum* in between.⁶¹ As it was proposed above, educational credentials played an important role in career prospects. Tribonian is one great example of how education in many respects opened doors, but at the same time his career also serves as another contrasting illustration to John the Cappadocian and Peter Barsymes' success. Nevertheless, the cultural capital garnered by such a man like Tribonian was considerable and this, in turn, enabled him to attain the summits of imperial government.

With regard to the aristocracy, it is still possible to note the traditional pathway to success. The political field is still predominantly composed of aristocrats from well-to-do families who have similar upbringings despite regional variances. Thus, men such as John the Cappadocian and Peter Barsymes are not the norm, but not rarities either. The contrast here is economic and social capital on the one hand, which is wielded by the traditional aristocrat, and cultural capital, which can overlap. Cultural capital is a marquee of the aristocracy notably in the field of education. However, it is not restrictive, as it can offer opportunities for advancement to an individual of a lesser background if the right patron values heuristics. In sum, the aristocracy is stratified along the lines of civic and imperial government. Yet, admittance into Roman high society is not impossible. Then again, such an entry might not be well received by the group. It appears that such individuals were viewed as *nouveaux riches* and as outsiders. This phenomenon details to what extent this brand of capital had evolved. John the Cappadocian and Peter Barsymes' positions in the social arena prior to their rise to power are not inherent but

⁶¹ Lawyer for the Prefecture: *Suid.* T.956; *Codex:* *CJ* 1.17.1; for the first quaestorship (A.D. 529-532): *CJ* 7.63.5 (beginning), *Proc. Wars* 1.24.11 (end of tenure); *magister officiorum* (A.D. 533-535): Justinian, *Const. Imperatoriam* (beginning); *Nov.* 23 (end of tenure); for the second quaestorship (A.D. 535-?542): *Nov.* 23 (beginning), *Proc. Wars* 1.25.2 (end of tenure)

relational. The discrepancy of capital between them and the likes of a Procopius, John Lydus or a member of the Apiones is considerable. However, the former group can bridge the gap and be subsumed into the latter with valued heuristics.

THE EVOLUTION OF CAPITAL: SYMBOLIC CAPITAL

In the account of Dioscorus above, we have seen that economic capital is sometimes if not often insufficient in a conflict amongst aristocrats. The individual's social capital is thus vital. It has also been argued above that economic capital can stem from both social and cultural capital. However, there are a few important developments that occur in Late Antiquity that must be underlined. Wealth was often finite for the provincials unless there was a prospect for admittance into Rome's senate, amongst other lucrative offices and honors. There are three phenomena that occur in the two centuries leading up to the reign of Justinian, which shaped the aristocracy. There was an evolution of the city's status and role within the imperial administrative framework. The destabilization of the curia, which is linked to the former development, occurs. Lastly, once again related to the two former are tax exemptions. There are many more important events, reforms, laws and other instances that shape the aristocracy, but these three have exceptional implications.

Shortly after the Tetrarchic reforms were conceived and implemented, the secondary effects became visible. Fiscality and centralized control necessitated fundamental changes to the fabric of the Roman administration at the micro level. In a scramble to restore fiscal health, imperial laws were tyrannical. The imperial government did not only cause the disintegration of the empire's nucleus, the cities, by inadvertently detaching the *principales* from their respective municipal councils. As it was proposed in

Chapter 1, the Tetrarchic reforms stripped the wealthiest components from the *curiae* and this harmed tax revenues. Interestingly, a series of laws that are often mentioned in passing and not given much weight in the debate over the decline of the *curialis* institution are of utmost importance. The Empire had varying institutionalized relationships with its cities. One in particular, which granted tax immunity and a status of freedom (*civitates liberae et immunes*), was rather lucrative for the locals. This advantage was not to be found in most cities' constitutions, but it nevertheless enabled many cities to thrive such as Berytus, Heliopolis and Palmyra amongst others. More widespread was the *ius italicum*, which granted similar fiscal privileges. These privileges were rapidly taken away in the Later Empire.⁶² The push for increased revenue could only see an inversely proportional equation unfold, as the increase in revenue at the center translated into decreased wealth in the periphery's political institutions (i.e. not the individual's economic capital).

One of the more causative imperial laws with regard to the city occurred in the fourth century. Cities across the Roman Empire possessed large stretches of civic lands, which were valuable to the curia for fiscal purposes. However, notably under Constantius II, the imperial government confiscated these civic lands to enrich its own coffers. Then again, Constantine also confiscated the temple lands. Despite a brief respite under Emperor Julian who attempted to revitalize the municipal economies, the reform endured.⁶³ The implications of these developments in fiscal policy are very extensive.

⁶² See *Digest* 50.15 for a list of cities with tax immunity. For a good analysis on cities and *immunitas*, see R. Bernhardt, *Imperium und Eleutheria: die römische Politik gegenüber den freien Städten des griechischen Ostens* (Hamburg: Universität Hamburg, 1971). For the *ius italicum*, see A.H.M. Jones, *The Later Roman Empire, 284-602*, 64-65.

⁶³ *CTh* 10.3; 5.13.3; 10.1.8; *CJ* 11.70.1; Ammianus Marcellinus, 25.4.15; Libanius, *Or.* 23.45; 30.6.37; 62.8.

The aristocracy, which was stratified at the civic level with the *principales* at the summit, was fragmented under the Tetrarchs. *Principales* and other fortunate members of the elite were able to enter the imperial government. However most of those left behind not only had to cope with the loss of their wealthier colleagues' financial assets, they also had to maintain the expected cadence with respect to tax collection without the municipality's lands. Hence, it is not as much an institutional failure due to the aristocracy as much as the imperial government's actual policies that stripped the heart of the Roman Empire's fiscal livelihood in more ways than one. The combination of these losses at the civic level was debilitating to say the least. As a result, the Roman Empire's elite was not only divided along institutional lines, but also along capital lines. The discrepancy particularly in economic and cultural capital was substantial. An imperial official could wield exceptional power. For example, in Aphrodito, a local politician such as Dioscorus was no match for a pagarch, an imperial official, in a political conflict. The culmination of decades of laws and imperial policy, which had cascading effects upon the curia, destabilized it to its foundations.

To further compound this socio-political development, the segment of the aristocracy, which fragmented off to enter the imperial government gained additional economic benefits to the ones listed above. Their departure simultaneously unfolded while the municipal council was undercut by imperial policy. In the case of those who migrated to the imperial government, the benefits were many. However, one does indeed stand out and it is tax immunity. The *illustres* were granted immunity from the *sordida munera* and the *extraordinaria* in the early fifth century. Otherwise only those of the

highest orders were fortunate to receive reprieve from the latter tax.⁶⁴ Yet, the senate in the East does not become a hereditary caste as it did in the West. Successive generations inherited wealth and privileges, but not ranks and titles.⁶⁵ The result of this is perhaps not as significant as is often argued. The rank of *illustres* was not as sizeable a segment as the *clarissimi* and *spectabiles*. Hence for only those who were at the very peak of the social order were there advantages in that sense. The advantages at this point when contrasting the imperial and civic aristocracies lied in the potential social and economic capital available to those in the former group.

Magnificence is an attribute of expenditures of the kind which we call honourable, e.g. those connected with the gods-votive offerings, buildings, and sacrifices-and similarly with any form of religious worship, and all those that are proper objects of public-spirited ambition, as when people think they ought to equip a chorus or a trireme, or entertain the city, in a brilliant way...but it is right expenditure that is virtuous. But great expenditure is becoming to those who have suitable means to start with, acquired by their own efforts or from ancestors or connexions, and to people of high birth or reputation, and so on; for all these things bring with them greatness and prestige. Primarily, then, the magnificent man is of this sort, and magnificence is shown in expenditures of this sort, as has been said; for these are the greatest and most honourable. Of private occasions of expenditure the most suitable are those that...[interest] the whole city...for the magnificent man spends not on himself but on public objects, and gifts bear some resemblance to votive offerings. A magnificent man...will spend by preference on those works that are lasting...⁶⁶

This passage from Aristotle's *Nicomachean Ethics* embodies an enduring social and political structure of Antiquity, which steadily underwent transformation until it was more of a rarity than anything else. Euergetism was one of the predominant forms of symbolic capital during Antiquity. Symbolic capital essentially incorporates social, economic and cultural capital, but it distinguishes itself as following. It inherently

⁶⁴ *CTh* 11.16.23 and *CTh* 11.16.18, respectively.

⁶⁵ D. Feissel, "L'empereur et l'administration impériale," in *Le monde byzantin*, ed. C.c. Morrisson, et al. (Paris: Nouvelle Clío, 2004), 90-92.

⁶⁶ Arist., *Nich. Eth.* 4.2.

functions as a key marker by it being known and recognized as defining and contrasting the classifications within the social field. In other words it is illustrative of the distribution of capital. Aristotle effectively summarizes how euergetism in the ancient city was a paragon of symbolic capital when asserting the link between patronage in public life, the quantity of wealth and the prestige the two former garnered.

By the time Justinian came to the throne much had already changed in that regard. The division between the civic and imperial elite assured the restructuring of this particular structure, which was that of public life within the ancient city, particularly with respect to the elite and local politics. The *agôn* amongst aristocrats and political factions within the curia manifested itself in baths, temples and other monuments. The structure, which seems in some respect, less impactful than others, was indeed the opposite. Civic politics shaped the urban landscape of the ancient world and simultaneously fueled the fisc. Yet, the departure of the wealthiest segment of the municipal councils fundamentally changed this centuries-old structure. There were no longer any pertinent reasons for the wealthiest of the elite to patronize the construction of public works if the incentive, which was political power in the city, was no more. There are other elements, which must not be ignored that also contributed to this phenomenon. Above, it has been noted that the imperial government assumed the control of civic and temple lands. It also in some cases abolished special statuses granted to cities with regard to taxation. The civic elite was still required to pump revenue into the imperial coffers despite the combination of these aforementioned losses.

The result of these events were manifold, but the broader trend rather self-evident. The tremendous push in Late Antique archaeology over the last two decades have

revealed many realities of the empire's urban landscape, not to mention so much more. The evidence largely points to urban decay and even in many cases ruralization; essentially a reversal in the Antique trend. Sewers and aqueducts were abandoned for the likes of improvised trenches. Burials were found increasingly within the city walls, which they themselves were not maintained. Houses also fell victim to the trend. This development manifested itself throughout the entire Mediterranean region.⁶⁷ The Tetrarchs initiated a domino effect, which had far reaching consequences. The structures of Antiquity were in some cases restructured rapidly, but in other instances slowly. One of the hallmarks of the period, urban life, fell into the latter category. Ruralization really took hold of the empire in the sixth century, but not uniformly due to the geographic variances. For example, shortly after A.D. 530, Athens' agora assumed a rural role, as two agricultural presses were constructed within it. The machinery itself was uncommon to the urban setting, as it was more of a feature of the rural landscape. In addition, imports of ceramics were increasingly rare.⁶⁸ Asia Minor's great coastal centers suffered decline, as did the inland cities. Italy and North Africa's archeological remains also tell the same story.⁶⁹ The plague, which gripped the Roman Empire under the reign of Justinian,

⁶⁷ Sewers, aqueducts, burials and city walls: H. Saradi-Mendelovici, "The Demise of the Ancient City and the Emergence of the Medieval City in the Eastern Roman Empire," *Echos du Monde/Classical Views* 32 (1988), 365-401; G. Dagron, "Le christianisme dans la ville byzantine," *DOP* 31 (1977), 1-25. For the houses: S.P. Ellis, "The End of the Roman House," *American Journal of Archaeology* 32 (1988), 565-576. As a Mediterranean phenomenon: J.B. Barnish, "The Transformation of Classical Cities and the Pirenne Debate," *JRA* 2 (1989), 385-400; C.c. Morrisson, "Peuplement, économie, et société de l'Orient Byzantin," 210-211.

⁶⁸ J.-P. Sodini, "L'habitat urbain en Illyricum à la veille des invasions," in *Villes et peuplement dans l'Illyricum protobyzantin* (Rome: École française de Rome, 1984), 341-397.

⁶⁹ For Asia Minor: C. Foss, *Byzantine and Turkish Sardis* (Cambridge, Mass.: Harvard University Press, 1976); "Archaeology and the 'Twenty Cities' of Byzantine Asia," *American Journal of Archaeology* 81 (1977), 469-486; *Ephesus after Antiquity: a Late Antique, Byzantine, and Turkish city*; "Late Antique and Byzantine Ankara," *DOP* 31 (1987), 29-87; "The Cities of Pamphylia in the Byzantine Age," in *Cities, Fortresses, and Villages of Byzantine Asia Minor*, ed. C. Foss (Aldershot: Variorum, 1996); M. Müller-Wiener, "Von der Polis zum Kastron," *Gymnasium* 93

is often mentioned in this context. However, it appears that the classicizing ways of Procopius are largely responsible for the over-estimation of its impact in his Thucydides-like account.⁷⁰ The material evidence largely does not support the magnitude of the literary evidence.⁷¹

Another event, which occurs under the reign of Justinian, epitomizes the trend. The Roman consulship was a relic of the long past days of the Republic. Its evolution as an institution reflected the political trends of Roman civilization. It became an apolitical office, whose responsibilities lied mainly in the distribution of largesses. On the first day of January each year, the consul was responsible for the games and the distribution. This was a costly endeavour. In A.D. 541, the office was abolished, as its significance was null

(1986), 435-475. For Italy: L. Paroli and P. Delogu, *La storia economica di Roma nell'alto Medioevo alla luce dei recenti scavi archeologici*, Biblioteca di archeologia medievale (Florence: All'insegna del giglio, 1993). For North Africa: W.H.C. Frend, "The End of Byzantine North Africa," *Bulletin archéologique du Comité des travaux historiques et scientifiques* 19 #2 (1985), 387-397.

⁷⁰ Proc. *Wars* 2.22-33.

⁷¹ For the contradiction in the sources: J. Durliat, "La Peste du VI^e Siècle: Pour un Nouvel Examen des Sources Byzantines," in *Hommes et Richesses dans l'Empire Byzantine*, ed. V. Kravari, J. Lefort, and C. Morrisson (Paris: Lethielleux, 1989), 107-119. Durliat also points out the fact that Procopius fails to mirror his famous account effectively in the *Anecdota*. That would have conveniently fit his agenda in the latter work, which was largely a diatribe aimed at Justinian and the empress. The stressing of divine retribution against the emperor in the form of the plague is absent. Taking into consideration the long list of fictional tales the author writes about the emperor and his consort, the omission is rather telling. G. Tate blames economic stagnation on overpopulation and not on the plague. However, he does maintain that the plague did have an effect: *Les campagnes de la Syrie du Nord du II^e au VII^e siècle*, 75-77, 335-342. Other authors underline the prosperity of the fifth and sixth centuries: A. Walmsley, "Byzantine Palestine and Arabia: Urban Prosperity in Late Antiquity," in *Towns in Transition: Urban Evolution in Late Antiquity and the Early Middle Ages*, ed. N. Christie and S.T. Loseby (Brookfield: Aldershot, 1996), 126-158. Banaji proposes that the economic prosperity endured until the seventh century: *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*. Outside the literary evidence, there are tenuous references made to such laws as Nov. 122 to support the magnitude of the plague detailed in the literary sources. However, articles by H. Hunger and C. Mango testify to the usage of literary tropes to describe contemporaneous events are more revealing than anything else: H. Hunger, *Prooimion: Elemente der byzantinischen Kaiseridee in den Arengen der Urkunden*; C.A. Mango, *Byzantine Literature as a Distorting Mirror* (Oxford: Clarendon Press, 1975).

and faded in comparison to the office during the Republican period.⁷² Interestingly, this event, which is in many respects insignificant politically, is simultaneously noteworthy due to the cultural implications. The abolition of the office is representative of the centralization of political power, which occurred over centuries. Just a few years before the abolition of the consulship, Justinian distributed 288,000 solidi to the Roman people. That does not include the games, which involved twenty lions and thirty panthers. This was done as part of the celebration of his consulship in A.D. 521.⁷³ Euergetism was increasingly centralized and was thus an undisputable sign of the destitution of civic politics and, by extension, the urban landscape.

Interestingly, the centralization of political power, which is responsible for the erosion of civic politics, the abolition of the consulship, the general phenomenon of urban decay coupled with the decline euergetism, manifested itself as a weaker substitute in the city. Due to the amount of public works, which were in need of maintenance, and the decline of euergetism, a void was left. The structures were in need of attention and this translated into the need of funds and of an institution to fill the void. The *pater civitatis* was not a new office, but it evolved to meet these needs at the local level.⁷⁴ The appointment of the official is somewhat obscure. The *pater* was probably nominated by the curia, but formally appointed by the imperial government. In some ways similar to the pagarch, the official was both imperial and civic due to the appointment and also due to the following. The curia held no authority over the *pater*; that responsibility was in the hands of the governor. The maintenance of public works was largely transferred to this

⁷² D. Feissel, "L'empereur et l'administration impériale," 91-92.

⁷³ Marcell. Com., *Chron.* A. 521.

⁷⁴ The earliest evidence for the office is found in *CJ* 8.12.

office.⁷⁵ One key passage, which C. Roueché mistakenly interprets, describes the office's duties:

You must also care for the necessities in the city and its public works, granting the necessary civic funds to the fathers⁷⁶ to repair bridges, roads and ports; likewise you must care for the walls of the ports in the provinces over which you preside; you must consider, give your attention and report to us anything that is useful to the public or to the cities.⁷⁷

Roueché argues that the terms *patres* and *πατέρας* are not used in this law as references to the Fathers of the Cities. She maintains that the introduction to the section of the law supports her assertion. However, the *prooimion* states that this law details the way in which to execute mandates dutifully. In Chapter iv, it is clearly instructed that any abuses when on mission to repair public buildings are prohibited. Therefore, the sequence of logic does not preclude a reference to the office in question. On the contrary, it does not provide a disconnect from the law's context.

Hence, with regard to maintenance, the imperial government began to assume the role of the *curiales* within urban centers. Only few exceptions can be found throughout the empire, notably in Asia Minor. In its western portion, the construction of monuments funded by the local elites increased while those of the governors decreased.⁷⁸ The general trend however indicates a pattern of shrinking urban centers. G. Dagron proposes that the change in the urban landscape did not equate in comprehensive emigration to the countryside. He instead suggests that there may have been a development of suburban

⁷⁵ C. Roueché, *Aphrodisias in Late Antiquity* (London: Society for the Promotion of Roman Studies, 1989), see intro; J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 110.

⁷⁶ *patres* and *πατέρας*

⁷⁷ Nov. 17.4; I here provide my translation.

⁷⁸ C. Roueché, "Cities and the imperial government in the early Byzantine empire," in *Nottingham Conference*.

areas. In other words, the shrinking city centers resulted in an increase of villages.⁷⁹ This may be or may not be the case, but the fact of the matter remains that for the many reasons that caused the elite to evolve, the Roman city's landscape underwent a fundamental transformation as a result. And here I must point out that J.H.W.G. Liebeschuetz incorrectly proposes that material evidence defines the *curiales* and that it is traceable archaeologically. He thus proposes that the curia was extinct in the fifth century. Yet, he presumes that material culture defines the *curiales*,⁸⁰ while it is the opposite, notably when taking into consideration the data above. The city, which was a cornerstone of Antiquity, serves as a testimony to the cultural vibrancy at the local level, notably its aristocracy's involvement in municipal politics. Whether urban decay was only a sign of suburbanization does not fundamentally alter the understanding of the city's structural evolution. The civic monuments, which were emblematic of both Greek and Roman civilizations, were clearly declining. The architectural feats of the Church testify to a "passage d'un type de civilisation à un autre, en l'occurrence d'une civilisation de la cité à une civilisation de la ville."⁸¹

Not only was the imperial government assuming the role of the municipal notables, the Church was also to a certain extent involved. There is evidence, which indicates that bishops were also attempting to alleviate the situation. With the decline of public monuments, either renovations or new structures were needed. Theodoret of Cyrrhus writes of his involvement in such affairs. He patronized the construction of porticoes, baths and bridges.⁸² Although not much of a highly publicized public work in

⁷⁹ G. Dagron, "Le christianisme dans la ville byzantine."

⁸⁰ J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 32.

⁸¹ G. Dagron, "Le christianisme dans la ville byzantine," 25.

⁸² Theodoret, *Ep.* 79.

the sources, a bishop of Gerasa was responsible for the construction of the city's prison.⁸³ Again in Mesopotamia, the bishop of Edessa was in charge of the fortifications' renovations, but the emperor funded the enterprise. The emperor also provided the funds to build fortifications at BIRTHA CASTRA, which was overseen by Bishop Serghis.⁸⁴ At Kom Obo in Egypt, a public place was cleaned at Governor Arsenius' expense. In addition, with respect to the renovations an inscription reads: "And at the suggestion and dictation and by the virtue of the Bishop...the same place was renewed and rebuilt from foundation to roof..."⁸⁵ Again in Egypt, the bishop of Philae was involved in the construction of a harbor and fortifications.⁸⁶ Supervision seems to be more common than actual patronizing as there are other instances in Trebizond.⁸⁷ In Bostra, the bishop was responsible for securing the funds for public buildings from Justinian after he personally petitioned the emperor through an embassy.⁸⁸ Lastly, there is an odd incident in Edessa. Bishop Ibas of Edessa is said to have had a member of his entourage organize chariot races.⁸⁹ Despite the fact that these bishops were not actually funding some of these enterprises, they were still celebrated in the inscriptions. This does not follow the custom of personally financing public monuments, but nevertheless it still falls under the definition of euergetism, which literally translates as "performing good works." Yet there are instances just listed above, which indicate that the bishops financed public works. Moreover it is important to underline that the cities' notables, who were commonly

⁸³ P.-L. Gatier, "Nouvelles inscriptions de Gerasa," 298-307.

⁸⁴ Josué le Stylite, *Chron.* 88; 93, respectively.

⁸⁵ H.R. Hall, *Coptic and Greek Texts of the Christian Period from Ostraka, Stelae, etc. in the British Museum*, plate 1.

⁸⁶ M.G. Lefebure, *Recueil des inscriptions grecques et chrétiennes d'Égypte*

⁸⁷ *CIG* 4.8636; *MAMA* 3.106a (= *CIG* 4.8619).

⁸⁸ *IGLS* 9134.

⁸⁹ J. Segal, *Edessa the Blessed City*, 131, 164.

mentioned in this context, are relegated in the grander scheme of things.

This development is further noted in *Nov.* 128 (A.D. 545). The law applies to the Prefecture of the East, specifically to the cities in which there are bishops. By default, such cities are often important in size. Two important details emerge from this law in this context. The bishop, the leading men of the city and landowners are designated to appoint the father of the city, the head of its grain supply and other similar administrative offices. In addition, the bishop and the five leading citizens of the city were tasked to verify the financial accounts of the administrative officials they have appointed.⁹⁰ It is another telling sign of the fundamental transformation of the Roman urban landscape, not to mention its social fabric. The *curiales* surely had some part in the first, but most likely did not take part in the latter process. The leading citizens of the city were most often part of the upper tier elite, which had dissociated itself from the curia.

The change that occurs in the city does not equate to an impoverishment of the elite. On the contrary, wealth is abundant, but its footprint is less opulent. Again, the aristocracy was fragmented along the lines of local and imperial. Many members of the imperial elite are indeed local, but not necessarily the other way around. The civic elite, which formed the remnants of the curia after the exodus to the imperial aristocracy, is not as fortunate. As explained above, the chasm of economic, cultural and social capital between both segments is significant. The fragmentation of the civic elite gave way to an irrevocable fracture. Yet, the imperial aristocracy of the Late Empire is not “new” by any means, as some propose. It consists of men who benefitted in most cases from the imperial government’s initiatives in the late third and early fourth centuries, and thereafter. This process saw the cultural reproduction of a portion of the social hierarchy

⁹⁰ *Nov.* 128.16.

fill the materialized void created by the expanded bureaucracy. The very top tier of city councils (i.e. *principales*) saw their prominent position reproduced on a broader scale, transitioning from local to imperial clout. Many families would become entrenched socially and maintain their prominence over the course of time. Therefore P. Sarris is mistaken in his treatment of the phenomenon. The flagrant corruption of the upper tier elite, which he underlines, did not reach the point of ebullition in the late sixth century when “the private authority of the great landowner and the public authority of the Roman state had...become essentially indistinguishable.”⁹¹ The provincial elite had always been indistinguishable from the central apparatus in the Late Empire; in essence, it was the central apparatus.

Therefore, we are left with a perplexing question. If the competition amongst the civic elite once manifested itself in euergetism, how did economic capital manifest itself in symbolic capital in Late Antiquity? E. Patlagean argues that there was a transition from euergetism to Christian charity. She also maintains that euergetism remained a feature of Late Antique customs.⁹² There is evidence for euergetism throughout the period but not in the same volume as the previous ones. Many aristocrats of the highest echelons instead spent their monies on the acquisition of land, charity and on the patronage of Christian structures.

The elite however not only sought entry into the imperial administration due to its lucrative nature. Some also entered the Church, which also assumed some of the administrative tasks delegated from the center. Due to the controversial nature of the subject, it is difficult to deem the trend to be attributed to ulterior material motives,

⁹¹ P. Sarris, *Economy and Society in the Age of Justinian*, 230; A. Schor, *Theodoret's People: Social Networks and Religious Conflict in Late Roman Syria*.

⁹² E. Patlagean, *Pauvreté économique et pauvreté sociale à Byzance, 4e-7e siècles*, 181-184.

particularly that of economic, cultural and social capital. On the one hand, due to the injection of faith into the mix, it hinders the interpretative process making it much more muddled than anything else. On the other hand, the interpretation of the general trend of wealthy aristocrats moving from the periphery to the center with respect to politics offers the historian more latitude. In the latter situation, the historian is to a far lesser extent questioning the subject's heart. Nevertheless, there is evidence for such members of the elite practising Christian charity such as Cyrus. A former Consul and Praetorian Prefect, he fell out of favour due to the machinations of Chrysaphius. He became Bishop of Cotyaeum and gave much of his wealth to the poor.⁹³ Basil of Caesarea was himself a bishop from a wealthy family. He himself stated that if an individual were too poor, he should be seeking charity from the wealthy.⁹⁴ In other instances we might find a bishop regularizing and formalizing the alms destined to the poor. In Gaza, Bishop Porphyry instituted such a program, which offered six obols to each poor man on a daily basis.⁹⁵ These are amongst many examples of Christian charity that can be found throughout the period. In addition, it also indicates that euergetism was not exclusive to the emperor and his consort, and the local elite. The Church, which assumed secular duties for the government, also took on the role of politicians, who would distribute largesses to the masses. Hence, in many respects, symbolic capital was thoroughly transformed. It no longer was the physical manifestation of political ἀγώνες.

Public buildings were no longer valuable representations of the elite's symbolic capital, but other areas would compensate. As seen above, charity was one form of

⁹³ *La vie de s. Daniel le stylite* 31.

⁹⁴ For his family's wealth: *De Vita S. Macrina* 961a-b; 964b; M. Keenan, "De Professione Christiana and De Perfectione: A Study of the Ascetical Doctrine of Saint Gregory of Nyssa," *DOP* 5 (1950), 170. For charity: Basil of Caesarea, *Hom. In Psalm.* 16.2.

⁹⁵ Mark the Deacon, *De Vita S. Porphyrii episcopi Gazensis* 94.

symbolic capital. With the exponential growth of the Church during the course of Late Antiquity, structures were needed to adapt to the growth. The evolution of symbolic capital can be seen in the patronage of churches and monasteries. In some respects, this demonstrated some form of continuity with the past. However, the motives were far different. Political competition within the curia and even amongst cities was not the causative determinant. Yet, the continuous growth in numbers of such structures is a clear indicator of continual wealth.⁹⁶

Not only was the elite patronizing the architectural endeavors of the Church and investing in land, it also appears to have been hoarding its money in some cases. In the sixth and seventh centuries, the Sassanids laid waste to the eastern portion of the empire several times. Their armies extorted money from Roman cities repeatedly. In A.D. 540, Khosrau I negotiated with the leaders of Apamea and reached an arrangement, which included 1,000 lbs. of gold in tribute in exchange for the city's safety. However, once he entered the city, he betrayed his word and proceeded to seize all the precious metals. Less than twenty-five years later in A.D. 573, John of Ephesus reports that the city amassed considerable wealth and was distinguished as one of the more wealthy cities of the Empire, when the Sassanids returned to sack the city again.⁹⁷ In A.D. 540, the city of Edessa was also targeted by Khosrau I, who exacted two centenaria of gold from the city

⁹⁶ D. Claude, *Die byzantinische Stadt im 6. Jahrhundert* (Munich: Beck, 1969), 65, 74-76, 78, 102, 201-202; B. Ward-Perkins, *From Classical Antiquity to the Middle Ages: Urban Public Building in Northern and Central Italy, AD 300-850* (New York: Oxford University Press, 1984); G. Dagron, "Le christianisme dans la ville byzantine," 4-11; H. Kennedy, "The Last Century of Byzantine Syria: a Reinterpretation," *Byzantinische Forschungen* 10 (1985), 149-157, 162-164, 170-179; H. Kennedy and J.H.W.G. Liebeschuetz, "Antioch and the Villages of Northern Syria in the Fifth and Sixth Centuries A.D.," *Nottingham Medieval Studies* 32 (1988), 66; M. Whittow, "City," 18.

⁹⁷ For the events of A.D. 540: Proc., *Wars* 2.11.24; for those of A.D. 573: John of Ephesus, *HE* 292.12-293.13.

in exchange for its safety. In A.D. 542, another event unfolded demonstrating the elite's accumulated wealth. Belisarius had given the most influential and wealthy member of the city, John, the son of Basilius, as hostage to Khosrau I. John's grandmother attempted to purchase her grandson's freedom by offering the Sassanid king 2,000 lbs. of silver.⁹⁸ Shortly thereafter in A.D. 544, Khosrau returned to Edessa and was able to extract five centenaria of gold from its people. The city fell victim to the Sassanids once again, but this time to his son, Khosrau II in A.D. 609 when 120,000 lbs. of silver were extorted.⁹⁹

What emerge from these seemingly standard events of war are signs of accumulated wealth. Gifts to the public were often very costly, as it has been noted above for the consulship. Justinian gave over one quarter of a million solidi to the Roman people. Hence, these potential expenditures could be saved for other purposes. In the cases above in Syria, it appears that some members of the elite were hoarding vast sums of wealth instead of patronizing the Church or purchasing additional lands. It may be possible that such a woman as the grandmother of John of Edessa was able to accomplish all three (patronize, add to her family's estates and accumulate wealth). Nevertheless, it is rather clear that the elite was not hamstrung financially during this period. On the contrary, calamities such as earthquakes and invasions of Syria did not impede the accumulation of capital. On a side note, it also demonstrates what taxable resources were potentially available to Constantinople.

The decline of the curia can be seen through the events listed above that pertain to Syria. The curia and its members were stripped of much of its capital in many respects.

This inevitably entailed a diminution of their symbolic capital. As representatives of their

⁹⁸ For the events of A.D. 540: Proc., *Wars* 2.12.30; for the events of A.D. 542: Proc., *Anecd.* 12.8.

⁹⁹ For the events of A.D. 544: Proc., *Wars* 2.27.46; for the events of A.D. 609: Michel le Syrien, *Chron.* 11.10.

cities, it would have been standard to lead the negotiations. However, the reductions of their economic and cultural capital translated into a significant drop in symbolic capital. Roman society's perception of these developments discounted what must have been a customary choice. In Apamea, Khosrau I did not negotiate with a *curialis*. A priest of the city was sent to initiate the discussion about the city's fate.¹⁰⁰ There is other evidence, which is listed above examining the euergetism of bishops, which further testifies to this phenomenon. The reduction in the *curiales'* symbolic capital is manifest in hagiographies. For example, in the *Life and Miracles of Saint Thecla*, there is only one reference to *curiales* and they are not from Seleucia, which is largely the urban focus of the narrative.¹⁰¹ The curia's importance appears to have receded within the city's fabric. It was no longer pivotal domestically and in the city's foreign relations. In addition, this once again demonstrates how much of a chasm developed between the civic and imperial elite with regard to capital after the reforms of the Tetrarchs. On the one hand, the upper tier elite possesses a tremendous amount of capital. On the other hand, it must be noted that there is a proportional relationship between the capital of the remnants of the civic aristocracy and its importance in the social, political and economic arenas, which is epitomized in symbolic capital.

From a broader standpoint, the Late Antique aristocracy was further fragmented along the lines of economic, social, cultural and symbolic capital. The division along capital lines within the curia was not only pronounced with the reforms of the late third and early fourth centuries, but grew exponentially. The imperial government itself authored the fragmentation, which is manifest in the dichotomy between civic and

¹⁰⁰ Proc., Wars 2.11.17-23.

¹⁰¹ *Vie et miracles de Sainte Thècle: texte grec, traduction et commentaire*; M. Whittow, "City," 19-20.

imperial or between peripheral and centralized. Surely the results were unforeseen, but the reforms that restructured centuries-old structures thoroughly affected the strata within the elite. With these fundamental changes came the re-definition of social, cultural and symbolic capital. Social networks expanded greatly and intrinsically tied the periphery to the center, but not according to the preference of the imperial government. These complex social networks enabled key agents within it to wield enormous power often to the detriment of the center. With respect to cultural capital, it has been noted that there was a greater emphasis on the heuristics of a given individual. Hence, this increased the likelihood of new men piercing the summit of the Roman social order. Yet, due to the other enduring elements that defined cultural capital, there was somewhat of a conflict. Education, pedigree and economic capital were still the cornerstones in that area. Lastly, the chasm between the imperial and civic elite manifested itself in symbolic capital. No longer were great public monuments shaping the urban landscape. The notables of the municipal councils did not express their competitiveness in the patronage of such monuments. Their wealthiest segment had already emigrated to the imperial government. Symbolic capital was now visibly less discernible. Churches were indeed the most visible, but simultaneously the architectural trademarks of the ancient city were declining at a rapid rate.

Therefore, the conclusions made with respect to class-related issues on this topic are generally problematic. Both P. Sarris and J. Banaji faultily extrapolate their findings in Egyptian evidence, particularly papyri, to paint a broader picture of the whole empire's social and economic machinery. The magnates of great estates in Egypt were not

emblematic of the Empire as a whole. On the contrary, Egypt had its own set of social, economic and cultural conditions. Much scholarship has been produced that validates this objection. The archaeological work of G. Tate in Syria indicates that the small landholder was dominant.¹⁰² Then again, M. Kaplan convincingly proposes that the small landholder dominated the rural landscape of the Empire until the Middle Period of Byzantium.¹⁰³ On the economic side of things, Sarris fails to underline the contrast between the reigns of Anastasius and Justinian. The vast treasury amassed by the former vanished in the reign of the latter. This was no coincidence. Justinian's monumental effort to recapture Roman lands and fend off the Sassanid juggernaut to the East cost exorbitant amounts of money. That is not to mention his building campaign. John the Cappadocian was quick to voice the financial reality of his overlord's designs.¹⁰⁴ Yet, Sarris mistakenly proposes that the large landholders were common and that by virtue of their land they were responsible for the fiscal decay of the Late Empire through institutional abuse. The latter argument is in the tradition of A.H.M. Jones, amongst others. This does not account for the fiscal discipline under Anastasius. First, as mentioned above, there was not a "new" elite, as it was just a fragmented and evolved one. The restructuring of Antique structures under the Tetrarchs enabled the top segment of the elite to reach unparalleled heights. Second, it is highly unlikely that from the year A.D. 518, a sudden incapacity to exercise fiscal discipline gripped the Empire due to this very elite. The imperial government was the agent, which caused the restructuring and enabled this transformation in the social arena.

¹⁰² G. Tate, *Les campagnes de la Syrie du Nord du II^e au VII^e siècle*.

¹⁰³ M. Kaplan and Centre de recherche d'histoire et civilisation byzantines, *Les Hommes et la terre à Byzance du VI^e au XI^e siècle : propriété et exploitation du sol*, Publications de la Sorbonne Série Byzantina Sorbonensia (Paris: Publications de la Sorbonne, Université de Paris I-Panthéon-Sorbonne, 1992).

¹⁰⁴ Proc., *Wars* 3.8-17.

In addition, it is also responsible for the expenditures. In the case of Justinian, the contrast between Anastasius and Justinian is immense.

Lastly, from an even broader perspective, this method fails to acknowledge the role of social, cultural and symbolic capital by secluding itself to economic capital as the source of causation. It also fails to acknowledge the agency of individual actors that cause cascading effects by instead focusing on class. For instance, the Tetrarchs initiated a series of institutional reforms that were not only due to fiscal interests, but *also* to administrative control and political security. These events, which transpired over less than a quarter century, had far-reaching consequences, such as the accumulation of capital within the hands of the upper tier aristocracy. If that were a consequence, which it is, it would be problematic to base a system of causation upon it; this is especially the case since this system of causation does not stem solely from economic logics. Moreover, it has also been pointed out that economic capital is often a derivative of cultural and symbolic capital, thus inhibiting any argument for it being the sole source of causation.

CHAPTER IV: THE ROMAN EMPIRE ON THE EVE OF JUSTINIAN'S REFORMS

As it has been noted in the previous chapters, the imperial administration did not anticipate many of the Tetrarchic Reforms' consequences. The reforms created a social, political and economic crisis. Varying forms of capital evolved simultaneously as a result of the reforms. This thus altered the complexion of the Roman elite, particularly its upper tier. Administrative control, which was one of the primary objectives of the reforms, was tightened theoretically, but not in practice to the extent which was desired. The notables wielded much more power in the provinces, as their assets grew considerably. Though, political security was achieved while the desired fiscal stability was not.¹ The fiscal health of the Roman Empire continued to deteriorate with only a few exceptions that were rather brief. Anastasius' reign is one of the remarkable exceptions. However, that moment of fiscal solvency was short lived as the treasury he had amassed dwindled in the early reign of Justinian. Thus, the administrative framework that Justinian inherited was quite dysfunctional and inefficient. Yet fortunately he benefited from Anastasius' fiscal efforts. Though that fortune was quickly squandered in less than two decades. In the midst of an ever-increasing need for revenue, the imperial administration saw a portion of its empire, as a great testing ground for fundamental institutional reforms. This would largely be carried out in Asia Minor in the A.D. 530s.

¹ R. MacMullen affirms "It seems natural to connect the increase in all, with an increase in the government itself. In short, I assume more governmental pressure, more effort at control of resources, in response to the third-century crisis." ("The Power of the Roman Empire," *Historia: Zeitschrift für Alte Geschichte* 55 #4 (2006), 476.

However, before examining the reforms themselves, it is necessary to determine what was the shape of the administration in these administrative areas. In the following pages, an inquiry into the relationship between the imperial administration and bureaucratic efficiency will be launched. The analysis will cover the period stretching from the Tetrarchic reforms up to the early reign of Justinian (prior to his provincial reforms of the A.D. 530s). The first part of this inquiry is short and is focused upon the makeup of the administration, particularly with respect to its size. By imperial administration, such elements as its verticality and its numerous layers will be surveyed. In particular, the diocese, the vicariate, the appeals system and the provincial administration will be scrutinized. With that established, the analysis will proceed to an evaluation of performance. With regard to bureaucratic efficiency, many areas will be targeted: redundancy, corruption, hollowed magistracies and intra-bureaucratic cooperation amongst others. A relationship between both the size and efficiency is the aim of the following pages.

The scholarship on the subject is plentiful, as are the interpretations and methods. However, there is a general consensus regarding the state of the administration prior to the reforms. Most scholars agree that there were glaring issues in the administration of the provinces. The difference lies in the system of causation chosen by the scholar. C. Kelly proposes that the position of the emperor at the summit of the Roman world in Late Antiquity was ensured by its shift to an oriental despotate, that is, the Dominate. The ideological expression of the emperor's power simultaneously caused his position to weaken due to an elaborate bureaucracy. However, Kelly argues that imperial power persisted through conscientious decisions: "Administrative responsibilities were

arbitrarily split or shifted; personnel were moved between departments; promotion was based on a set of often conflicting criteria..."² In other words, emperors wittingly sacrificed bureaucratic efficiency for the maintenance of power at the center. His work, *Ruling the Later Roman Empire*,³ expands upon the previous paper quoted just above from the thirteenth volume of *The Cambridge Ancient History*. The difficulty with this proposition lies in the stated motivations of the emperor. This would insinuate an enduring imperial agenda to which most emperors subscribed. Then again, it would also postulate that all reforms were conceived with this very power play in mind, which does not appear to be likely. Institutional problem solving was a priority and this can be seen in the appointments Justinian made for the Prefecture of the East.

Many scholars see the Empire's institutions as the cause for administrative difficulties. Two of the better-known historians in the field see the evidence in this light. A.H.M. Jones and E. Stein pay particular attention to complex judicial problems, which stemmed from the status of provincial governors and the appeal system.⁴ More recently, historians have pursued the same line of thought. J.A.S. Evans views the failures as symptoms of a systemic issue. Specifically, he sees the imperial administration as a self-interested entity, oblivious to its roles: "'Parkinson's Law' had affected both the civil service and the church."⁵ Similarly, J. Haldon asserts that the imperial center attempts to

² C. Kelly, "Emperors, Government and Bureaucracy," 182.

³ C. Kelly, *Ruling the Later Roman Empire* (Cambridge, MA: Belknap Press of Harvard University Press, 2004).

⁴ E. Stein, *Histoire du Bas-Empire*, 463-464; A.H.M. Jones, *The Later Roman Empire*, 284-602, 493-504.

⁵ J.A.S. Evans, *The Age of Justinian: the Circumstances of Imperial Power* (New York: Routledge, 1996), 213. Parkinson's Law is a term coined by Cyril Northcote Parkinson, who proposed that the British imperial bureaucracy expanded to create work for itself and also due to the fact that officials sought to grow their staffs and not their rivals. In sum, the law proposes that bureaucracies do not grow to meet demand. They grow due to self-interest.

reclaim its power over the bureaucracy were nullified due to institutional stasis.⁶

Narrower arguments focus on the internal workings of the government. In this regard, G. Tate emphasizes corruption in the provincial administration, particularly with respect to the venality of offices.⁷ Others focus on the decline of the governorship.⁸

Others view a systemic problem stemming from social dynamics, particularly with respect to class. J.H.W.G. Liebeschuetz and P. Sarris see a new social phenomenon undermining the administrative framework. The former sees the transition from a civic government of decurions to that of notables. This development, he proposes, rendered the system less systematic and the notables who ran it less accountable.⁹ However, *The Decline and Fall of the Roman City* is not limited to a materialist approach, as he tends to lend much of his focus to institutional history. In a similar fashion, P. Sarris argues that, during Diocletian's reign, a new aristocracy emerged and it abused its political authority for personal gain. More specifically, the emergence of this "new" class fomented the decline of the imperial administration. More specifically, this very class systematically undermined the imperial administration:

...the consolidation of this new elite's social and economic preponderance threatened to undermine the basis of empire...to engage in acts of large-scale tax evasion and thereby to interrupt and diminish the flow of tax revenues on which the structures of the Roman state and, above all, the Roman army depended.¹⁰

⁶ J. Haldon, "Economy and Administration," 49.

⁷ G. Tate, *Justinien: l'épopée de l'Empire d'Orient, 527-565* (Paris: Fayard, 2004), 380-389.

⁸ C. Roueché, "The Function of the Governor in Late Antiquity: Some Observations," *AnTard* 6 (1998), 31-36; C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," *AnTard* 6 (1998), 83-89.

⁹ J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, 405-408.

¹⁰ P. Sarris, *Economy and Society in the Age of Justinian*, 228.

Unlike Liebeschuetz, his method is almost exclusively rooted in Marxist theory.¹¹

Similarly, J. Banaji discusses a transition within the aristocracy. However, he applies economic theory to the evidence while Sarris' energies are mainly spent on social history. Banaji, though, proposes that this new aristocracy exploited a dispossessed peasantry in a new labor system. He too argues that this new aristocracy engaged in "widespread and systematic bureaucratic profiteering, involving the kinds of speculation and rent-seeking..."¹² The emphasis on the mode of production and the control of the means of production lead this theoretical model to encounter many challenges. It forces the evidence to adapt to itself instead of the opposite.¹³ The evidence at our disposal does not corroborate the universal application of social norms in Oxyrhynchus to the rest of Egypt, even less the rest of the Empire. Therefore, the proposition that the proliferation of the great estates led to its monopoly of the means of production is tenuous at best. In addition, the great estates model proposed insinuates a concept of economic capital, which is somewhat flawed. The means of production were not solely rooted in agrarian production and the exploitation of its associated labor. Cultural capital could precede social, economic and symbolic capital, as was the case for John Lydus. Moreover, J. Haldon appropriately indicates:

The élite drew its wealth from three possible sources: from rent derived from the exploitation of agriculture and pastoral farming; from involvement in commerce and trade or production of goods; and from service at court and in the imperial administration. Of these there can be no doubt that the last-named provided, throughout most of the history of

¹¹ Also see, P. Sarris, "Social Relations and the Land: The Early Period," 92-111.

¹² J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*, 216.

¹³ For example, Sarris forces his great estates model upon the Syrian limestone massif. He uses the Egyptian model of city planning onto archeological evidence, which divulges not one indication of great proprietors.

the empire, the greatest portion of the élite incomes for a significant number of individuals...¹⁴

Hence, it can be argued that the great estates were but a subsidiary of realities in the capital. The great estate may have contributed capital to the notable's repertoire, but it was not necessarily its determinant. The capital generated by participation in the political field could make an aristocrat; possessions in real estate much less so. It can therefore be argued that the means of production were found more so in government than in agriculture itself.

An interpretative method employed by R. MacMullen is also of interest. His work, *Corruption and the Decline of Rome*, uses an interesting hermeneutical approach based on Parsons' theory of power. MacMullen argues:

By "power" I mean only the contrary of obedience...Local or central government was able to transmit its will through an armature of influence and obedience joining urban, provincial, and imperial leaders and their dependents. It functioned effectively because a generally accepted code of obligations pervaded both its public and private relations...Gradually, however, a competing code made converts among leaders and dependents alike and diminished the capacity to transmit and focus energy.¹⁵

He also maintains: "public and private power came to be treated as a source of profit."¹⁶ Unfortunately, his work does not account for the continuity of illicit practices dating back to the Republic. Then again, the first point of ebullition that occurred in the first century B.C. did not lead to the decline of Roman civilization despite rampant venality and self-interested politicians. These very same politicians of the Late Republic did not even remotely adhere to a code of honour. On the contrary they eliminated their rivals in civil wars or with proscription lists. They also flagrantly abused the rules of office tenure and

¹⁴ J. Haldon, "Social Élites, Wealth, and Power," 193.

¹⁵ R. MacMullen, *Corruption and the Decline of Rome*, x.

¹⁶ R. MacMullen, "The Power of the Roman Empire," 471-481.

they saw politics as a means of obtaining further capital. Therefore, an important element appears to be lacking in the application of this interpretative model.

Less than a decade later, J.E. Lendon published his work, which is inspired by the same method, and, in it, he furthered the line of R. MacMullen's argument. To be more specific, he proposes that the dysfunction of the Roman administration stemmed from a societal breakdown caused by the distinction of honors. He proposes that such a distinction between the authority and its subjects is effective until the subject wields more prestige.¹⁷ However, once again, precedents in the Late Republic undo this theory. The *cursus honorum* was not an effective tool to control the ambitions of a plethora of politicians. It can even be argued that the bottleneck at the praetorship created a breakdown in the *cursus* in the Late Republic.¹⁸ Moreover the focus on symbolic capital as a causative force denies the structuring properties of the Tetrarchic reforms. The reforms structured long-established structures, including the construction of the aristocracy. As a result, the system of causation cannot originate in a breakdown of the honors system. More broadly, both scholars appear to be more centered upon the causative role of conditioning. It does not account for the agency of the actors and their ability to define their constraints. Without constraints conditioning cannot be operational. In other words, the individual will seek to recognize his constraints in order to exploit whatever freedom he might have and with it, he will attempt to outwit the system. Gaming the system was no novelty; its size and scope however vary.

Drawing on the same cause, namely power, C. Ando attempts to rest the efficiency of Roman governance on imperial propaganda, as a unifying force between the

¹⁷ R. MacMullen, *Corruption and the Decline of Rome*, x.

¹⁸ See: J.E. Lendon, *Empire of Honour: the Art of Government in the Roman World* (New York: Oxford University Press, 1997).

periphery and center: “this book argues that the charismatic power of the imperial office guaranteed the orderly functioning of the Roman bureaucracy.”¹⁹ In his *Imperial Ideology and Provincial Loyalty in the Roman Empire*, Ando’s approach is rooted in a series of sociological theories. However, two of the larger problems associated with this work are glaring. First, there is once again a large focus on power and how it is exercised through conditioning. Once again conditioning does not define human behavior, especially if it is not conjoined with a set of constraints. Behavior appears to be much more in tune with the freedom the individual is granted. What held the empire together after the so-called crisis of the second century had less to do with a unifying imperial ideology, than the actors’ choices within that given set of conditions. A choice between economic and political uncertainty in a rogue kingdom was a less attractive proposition to a notable.²⁰ Whatever could be salvaged from the Empire at that point offered more to the same notable. This is related to a second issue to the application of theory. The work fails to account for the role of the provincial elite in the manner in which vertical power emanated from the center. On the contrary, C. Ando discredits most scholarship’s tendency to assign agency to such a collective term. That is only in part correct. A social class lacks objective determinants, but the political field nevertheless mobilizes it,

¹⁹ E.S. Gruen, *The Last Generation of the Roman Republic* (Berkeley: University of California Press, 1995), 177; H. Mouritsen, *Plebs and Politics in the Late Roman Republic* (New York: Cambridge University Press, 2001), 126.

²⁰ W. Kaegi succinctly writes: A substantial corpus of political and military advice existed at Constantinople concerning the use of cleverness, corruption, ruses, patience, and timing, instead of brute force, in order to achieve desirable ends in internal and foreign policy. Some of this advice had survived in aphoristic form from earlier Greek, Hellenistic, and Roman periods. Such advice, reinforced by the citation of specific historical precedents, aided some emperors and their bureaucrats in their efforts to avoid the risks of decisive warfare. Such compilations reinforced the confidence of Byzantine bureaucrats in their ability to overcome various challenges.” (C. Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire*, 410.)

creating a class' sense of identity.²¹ In fact, the imperial center did not have any difficulty mobilizing it to administrate its large tracts of lands. The relationship was reciprocal, as both benefitted in different ways. Both parties committed their resources for different reasons. The emperor was able to oversee the administration of his empire; the notables were able to accumulate capital, to make career advancements, to ensure a promising future for the next generation of their families, amongst many other motivations.²²

The study of the administration of Roman law is exhaustive. However, here I shall limit the analysis to a brief overview of the diocese and the province. The inquiry will focus particularly upon the general duties in the legislative area and the size of the bureaucracy involved. The provinces that were targeted by Justinian's provincial reform program in the 530's were largely in Asia Minor. The judicial system was rather complex with several layers in its mechanism and these included Constantinople, the praetorian prefecture, the diocese and the provincial governorship. However, due to the nature of the reforms, attention will be paid to the two latter.

Under the jurisdiction of the Praetorian Prefecture of the East, the Diocese of Pontus was the intermediary between the former and the provinces. In this very diocese, its vicar presided over the provinces of Bithynia, Galatia, Paphlagonia, Honorias, Galatia, Cappadocia I, Cappadocia II, Helenopontus, Armenia I and Armenia II.²³ The vicar was at the head of the diocese and this institutional apparatus was largely bent on administering justice throughout a given diocese. He had three hundred imperial functionaries at the behest of his office. For example, in the case of Africa in A.D. 365,

²¹ See discussion of class in Chapter 2.

²² B. Näf, *Senatorisches Standesbewusstsein in spätrömischer Zeit* (Freiburg: Universitätsverlag, 1995).

²³ *ND Or.* 25.

three hundred *officiales* constituted the vicar's staff. The size of his retinue seems to have been initially unnecessarily large, as later legislation would in one case set a vicar's staff at only 25% of the originally mandated size.²⁴ One of its most important roles involved inter-provincial crime. Brigandage crossing over provincial lines was not uncommon and in that particular circumstance the governor was powerless to pursue perpetrators outside his jurisdiction. The task then fell to the Vicar in such cases.²⁵ With respect to the judicial system's mechanism, the vicar was technically a channel for appeals from cases in the provinces.²⁶ Generally the administrative role of the diocese is otherwise not very much known to us, but by the beginning of Justinian's reign this specific layer of the legislative branch seems to have been very unpopular. Its traffic rate decreased substantially since its inception.²⁷ In sum, the vicariate's size was rather large, when taking into consideration its effectiveness in the legal system. In addition, with respect to fiscality, it had also lost most of its importance to the *tractatores* whom the Praetorian Prefects sent to supervise the provinces directly.²⁸ Thus, in the grand scheme of things, this specific branch's bureaucratic value was very much in doubt.

The province is often considered to be the next subordinate unit in the administrative machinery of the Empire. However, that hierarchy of governance found in the *Notitia Dignitatum* can be rather misleading, as it shall later be discussed. The governor oversaw his province in theory, but the evolution of the provincial bureaucratic

²⁴ *CTh* 1.15.12; 1.15.5; *Ed.* 8.3.

²⁵ *Ed.* 8 reinstitutes the Vicar of Pontus to quell this problem two decades later in approximately A.D. 548.

²⁶ *CTh* 1.15.

²⁷ "Some Perspectives on Byzantine Bureaucracy," in *The Organization of Power: Aspects of Bureaucracy in the Ancient Near East*, ed. M. Gibson and R.D. Biggs (Chicago: Oriental Institute of the University of Chicago, 1991), 135.

²⁸ *Ed.* 13.9-12; 27; Eustratius, *V. Eutych.* 68.

machinery proved otherwise. In every province, the governor was responsible for the administration of justice to a certain extent. The governor's office lost its judicial authority over the public as the centuries passed following the Tetrarchic reforms. The governorship's powers within the legislative branch of the Empire were no longer sought as a reliable recourse. A quaestor was created for the city of Constantinople to handle the enormous amount of congestion in the capital stemming from the appeals of provincials.²⁹ Therefore the appeals system is a rather compelling area that substantiates the decline of the governor's authority in the administration of Roman law. Oft times appeals would be made to the Prefecture, to the capital or to the vicar, notably to the two former. The governor would be leapfrogged in many cases. This was one of the many problems associated to the appeals system, as it was flooded.³⁰ Individuals would often resort to private petitions. Wealthy and powerful individuals steadily became an increasingly viable recourse in this particular circumstance.³¹

Despite the waning power of the office, the governor had the luxury of a rather large retinue. The reforms indicate how this was problematic to the capital. In *Novel* 29, Justinian specifically mentions the practice of sending delegates as representatives to cities. He forbid any such practice and instructed the governor to effectuate his tasks directly.³² Yet the governorship had become a shell of its former self. It did not carry the

²⁹ A.H.M. Jones, *The Later Roman Empire, 284-602*, 374-375.

³⁰ *Nov.* 80.

³¹ J. Gascou, "Les pétitions privées," in *La pétition à Byzance*, ed. D. Feissel and J. Gascou (Paris: Association des amis du Centre d'histoire et civilisation de Byzance, 2004), 93-103.

³² The reforms seem to indicate that the governor's retinue was a concern to the imperial court: *Nov.* 24.1; 25.1; 26.2; 28.3-4; 29.1-2; 30.7; the practice of delegating duties in the cities: *Nov.* 29.1. The extent of this problem can also be noted in the capital's insistence on approving the governor's officials: "...et habeat quidem utriusque magistratus annonas, officio autem utatur uno officialium centum (sufficiunt enim ei tanti), praetoriano officio nuncupando et ex probatoriis hinc competentibus." (*Nov.* 24.1)

weight it once did within the administrative framework. In some respects, its decline was not unlike that of the consulship, whose office holder was also to a certain extent decorative in the administrative machinery. Both were increasingly hallowed as the administration evolved, particularly the consulship. In essence, there appears to be much dead weight within this specific bureaucracy, as can be noted by the size of the vicar's retinue.

The justice system was rather large and very complex. The provincial administration as a whole did not appear to be any different. As it has been established above, the governorship had become a shell of its former self institutionally by the beginning of Justinian's reign, yet the office still commanded a great amount of personnel. Then again, the Tetrarchic reforms caused the number of provinces to grow exponentially, multiplying the number of governorships and staffs. Thus, the provinces reduced in size nevertheless had a governor, whose efficiency was questionable, with a large staff at its head. This may in fact be the reason for the Diocese's inception. The multiplication of provinces necessitated an increase in supervision. Evidently, the central apparatus would have to delegate this task by creating intermediary bureaucracies, i.e. the Prefecture and the Diocese. Due to the tiers within the system, it is difficult to accept C. Roueché's proposition. She argues that the subdivision of provinces was primarily intended to alleviate logistical issues governors had to face as judges.³³ It was one reason, but surely not a priority. The Empire found itself in fiscal and financial turmoil during the period.

³³ C. Roueché, "The Function of the Governor in Late Antiquity: Some Observations," 32.

The internal threat stemming from ambitious men in the provinces such as Maximinus Thrax or Gordian I was a stark reality.³⁴

The Tetrarchs also further expanded the personnel by dividing the civil and military branches in each province. As it has been discussed in a previous chapter, the division of the military and civil branches was effectuated for a multitude of reasons. However, Diocletian sought to quell two of the most glaring needs of the center: fiscal solvency and military security in internal affairs. Hence, the civil and military administrations were no longer a unit. On the contrary, they had their respective heads and the governor was still in the mix. In most provinces, the governor was mandated to focus mainly on fiscal and legal duties.³⁵ His military duties for the most part were relinquished. Nevertheless, A.H.M. Jones' estimates for the bureaucracy's expansion under the Tetrarchs range anywhere between 10,000 and 15,000 men just in the provincial and diocesan administrations.³⁶ However, in A.D. 396, Arcadius instructed the Governor of Illyricum to collect taxes with a group of imperial officials. There, curiales did not perform the exactions. On the contrary, one hundred men staffed this tax collection unit.³⁷ As a result, this total excludes the other branches of the provincial administration in Illyricum. It does not include those who staffed the justice and military branches within the province. Therefore, by extension, the numerical estimates of A.H.M. Jones listed just above might be slightly modest.

³⁴ Maximinus Thrax rose through the army to become a general. He conspired with the soldiers to assassinate Alexander and thus usurp the imperial throne. As Governor of Africa, Gordian I along with his son, Gordian II, then became unwilling usurpers. See Herodian, *Hist.* 7.

³⁵ Aristius Optatus, a certain Prefect of Egypt, reiterates an imperial edict of Diocletian, Maximianus, Constantius I and Galerius ordering diligent and systematic tax collection: *P. Cairo Isid.* I (A.D. 297); Diocletian and Maximian's specifications about jurisdiction within the legal system: *CJ* 3.3.2 (A.D. 294).

³⁶ A.H.M. Jones, *The Later Roman Empire, 284-602*.

³⁷ *CJ* 12.57.9.

The reason for dividing the civil and military administrations is not specifically known to us. The sources of the period are lacking and a sizeable amount of the information we do possess dates from later periods. Therefore, such attestations are shaped in hindsight after the reforms themselves. Nevertheless, due to the historical context of the reforms under the Tetrarchs, one might surmise that the division was intended to reduce the power of provincial governors. The *dux* commanded whatever troops were stationed in the province. In Egypt, soldiers were mainly used for policing while in other regions such as Armenia the military was used primarily in matters of foreign policy. Constantine oversaw the crystallization of this institutional development. He, as his predecessors, feared challenges from within and thus such a reform was calculated. Nevertheless, the division was part of the larger phenomenon, which saw the imperial government grow tremendously with the object of a firmer control over taxation, the legal system and the military.

The growth of the imperial administration is not a subject of debate. However, the final product of the Tetrarchic reforms offers different interpretations. As it has been noted above, the size of the legal system was considerable. At this point, it is important to determine its actual effectiveness. In other words, did the bureaucracy administering Roman law perform its tasks proportionally to its size? Many areas are of interest in this particular discussion: accessibility, corruption and institutional obsolescence or redundancy. With regard to the accessibility, the commoners' access to the justice system will be investigated. In the area of corruption, an examination of extortion and injustice amongst others will be conducted; accessibility will also play into the fold. Lastly, offices

and entire bureaucracies will be scrutinized with respect to their real value and functioning within the judicial apparatus.

A SURVEY OF THE ROMAN GOVERNMENT'S MACHINERY

The imperial capital, the prefecture, the diocese and the province each had its role in the administration of justice. There appears to have been a conscious effort to systematize the procedures under the Tetrarchs. However, that quickly unraveled. Appeals flooded a system, which could not effectively manage them. As a whole the legal system had become unnecessarily complex. Average Roman citizens could not gain fair access to it. *Sportulae*, generally, were fees that were either deemed legal or illicit by the central government. An inscription at Timgad describes these fees as mechanisms, which enabled the emperor to exempt himself from paying bureaucrats. To be more specific, they did not factor into the fiscal apparatus.³⁸ In the case of the justice system, *sportulae* were bribes or “fees” paid by an individual at each phase of litigation; they were necessary only to have access to the courts. This process could be long and drawn out depending on the situation. The imperial court was very aware of these. Regardless of the individual’s resources, a litigant had to travel to the governor’s court only to encounter long delays at that very place. This indeed incurred tremendous costs.³⁹ In the case of a small farmer, he would have to leave his crops for an indefinite amount of time. That

³⁸ *CIL* VIII 17896.

³⁹ Marcian, *Nov.* 1.1. Also, for the unreasonable fees charged, see A.H.M. Jones, *The Later Roman Empire*, 284-602, 51-52; 592-594. Interestingly the appeals system problem appears to have endured centuries, well into the middle period: P. Magdalino, "Constantinople and the Outside World," in *Studies on the History and Topography of Byzantine Constantinople*, ed. P. Magdalino (Burlington: Ashgate, 2007), 153 ff. For the failures of the appeals system, see R. MacMullen, *Corruption and the Decline of Rome*, 122-197.

time could be worsened by the long waits and other legal technicalities that could take place in the court itself. Also, he would have to spend money for his travels and then for access to the court. It was a rather very unattractive endeavor for a person of modest means, even one who was blatantly wronged.

The logistics mentioned above were not the only drawback, as the courts were not immune to corruption. Yet J. Harries argues: "There was therefore a perhaps surprisingly generous attitude towards access to the legal process, which was in theory available to all, more so than was to be the case with later systems, including our own." Epigraphic evidence does not concur with this statement.⁴⁰ Here I shall discuss two instances among many that describe the inequities of the courts. In the fifth century, Priscus tells of his encounter with a Greek merchant who decided to remain with the Huns after being released as their prisoner. Priscus accuses the merchant of treachery, who retorts sharply that Roman taxation is too heavy and that Roman courts are corrupt. In the latter case, he specifically underlines the accessibility issue, which prescribes the wronged prosecutor to pay a judge and his staff for justice to be administered. The length of trials is also subject to his critique. In addition, he sharply criticizes the application of Roman law itself. He argues that the laws are only applicable to those who do not have much capital. Hence, the wealthy, he asserts, are not subject to justice.⁴¹ The *sportulae* were used to alter the course of a case. The case could dramatically be shaped by the difference between the

⁴⁰ J. Harries, *Law and Empire in Late Antiquity* (New York: Cambridge University Press, 1999), 100. The statement is grossly inaccurate, as is proven in L. Di Segni, J. Patrich, and K.G. Holum, "A Schedule of Fees (Sportulae) for Official Services from Caesarea Maritima, Israel," *Zeitschrift für Papyrologie und Epigraphik* 145 (2003), 273-300. Then again, in contemporary North America, having access to a criminal public defender and other legal aid surely was not taken into consideration.

⁴¹ Priscus, *frg.* 8.

prosecution's and the defense's *sportulae*.⁴² Often the one who provided the larger bribe would purchase the judge's partiality. *Novel* 82 refers to this specific problem, where the law delineates fees to be collected by the judge when a case is over 100 gold pieces. Furthermore, the law specifies that higher judges be compensated with two pounds of gold annually and

...they should be content with that alone, they should not be bought and they look down upon money altogether. Because of this, we have chosen to reduce our income, to the point that each judge will be content with our largesse and with the allotted four *aurei* will keep his hands clean in front of God, Us and the law...⁴³

The vocabulary is very telling. By urging judges to keep their hands clean in the eyes of God, the emperor and the law clearly testify to the illicit inclinations. This validates the existence of unwritten "rules" (i.e. bribing judges) that accompanied standard procedures. Theoretically, the system of legal procedures was systematized and thus the results were to a certain extent predetermined. Outside of it, this left everything related to the process in an area where maneuverability was at a premium. Hence, charging unofficial fees solely to hear a case was technically outside the system of processes. Furthermore, legislation against such actions could have generally been ineffective. There was no paper trail nor could its evidence be provided with ease. These bribes are ententes made behind the scenes only to favor the judges (and to a lesser extent the wealthy perpetrator). Hence, the ability to exploit such an area of the administration came without much toil

⁴² In A.D. 330, Constantine issued a law forbidding the acceptance of bribes. Those caught would lose their hands by the sword. In the law, it is outlining how the governor's court of justice was purchasable. The law compels the governor to hear cases from all litigants, poor and rich. It also details how, during the process, litigants are victims of extortion at so many phases from different officials. It closes asking for governors to investigate any accusations of extortion, which in many respects is a paradox. Moreover, the law also encourages whistle blowers (*CTh* 1.16.7).

⁴³ *Nov.* 82.9: ...his esse contentum solis, et neque redimi et aurum omnino despiciere. Propterea enim elegimus fiscum minuere, quatenus horum unusquisque contentus nostra largitate et quaternis aureis puras deo et nobis et legi custodiat manus... (I here provide my own translation.)

and moreover it was undoubtedly very lucrative. With respect to the *sportulae* in their broader occurrences, laws speak of the preponderance of bureaucrats exploiting zones of uncertainty. When a *sportula* was legalized, officials would soon find new illicit venues to exact new fees.⁴⁴

A second critique of the fourth century is also rather pointed. Referring to the practice of law, Ammianus Marcellinus asserts:

Thirdly, there are those who, in order to win distinction in their mischievous trade, whet their venal tongues to attack the truth, and often gain a hearing wherever they choose by their brazen impudence and disgraceful clamour. When the court is already deeply perplexed they add complications which cannot be disentangled, and make it their business to prevent any peaceful outcome by raising knotty questions to embarrass the judges. When courts are properly conducted they are temples of justice, but when they are corrupt they are blind and treacherous pitfalls. Anyone who falls into them will not escape till many years have elapsed and he has been sucked dry to the very marrow.⁴⁵

Ironically, not much has changed in that regard to this day. At any rate, on the one hand, one might notice how such the process cannot be feasible to a common inhabitant of the Empire. On the other hand, this particular reality favored the wealthier segments of society. Litigants with modest means, who were wronged by a richer individual, either did not bother to seek justice from the onset or must have given up during a long process. The process could be drawn out not only due to lawyers and loopholes. Judges were also known to be incompetent in jurisprudence. Often they had no training in the area. Hence, *assessores* were vital to judges in this specific circumstance.⁴⁶ The inexperience and lack of knowledge could prolong cases. Judges would have to defer to the expertise of others and this could take time. Therefore, litigants would most likely incur heavy monetary

⁴⁴ *CTh* 8.1.4, 10, 11; *CJ* 12.61.

⁴⁵ *Amm. Marc., Hist.* 30.4.13.

⁴⁶ *Nov.* 82 pr., 1.

losses due to the delays and to the varying layers of the system, which each charge *sportulae*. In fact, the findings of Di Segni et al. demonstrate this. They assert that “the ordinary provincial in a lawsuit at Caesarea paid about 5 solidi in court costs altogether. This amount was almost equal to the cost of feeding a person for one year...Not many people could have afforded it; those who were less well off – probably the vast majority – resorted to other means of conflict resolution...”⁴⁷ This excludes the bribes (*sportulae*) paid to judges. As a result, Harries’ assertion alleging the generous accessibility to Roman courts is very much an overstatement. On the contrary, it appears to have been far from it.

If the initial phase had not discouraged the victim, this part of the process surely would. The wealthy perpetrator could in fact benefit by having a lawyer draw out the process. Obtaining a good lawyer, well versed in his field and in rhetoric, was a commodity that a commoner could not enjoy. In practice, on the one hand, the shrewd lawyer was obeying the system of procedures. In theory, on the other hand, he was not, for he was provoking a war of attrition in which its toll would benefit his client and simultaneously devastate the other party. Law was of no concern. Jurisprudence calls for the law to be administered blindly; perpetrators to be punished; victims to be vindicated. However, the exploitation of the system voids the three former truths through the intimidation of its costs. That very point was the foundation upon which the legal system was not grounded at least according to the legal sources, which survive. In Roman jurisprudence (as it is today), the ability to use the system against itself was a necessary

⁴⁷ Interestingly, logistics were still exploited into the middle period. It appears that the culprits would still deliberately target victims whose potential long journey to the capital would discourage litigation. See C. Kelly, *Ruling the Later Roman Empire*, 114-137 (esp. 128).

evil. Legislating against this could compromise the entire system⁴⁸ and so such a zone of uncertainty only favored the wealthier.

Thus, accessibility to the justice system intersects with corruption in these particular instances. It appears that the systemic problems were not limited to one particular period. On the contrary, they were endemic to the Empire in Late Antiquity. The pool of litigants must have been considerably smaller than it should have been because of the costs associated to the entire process. Then again, the administration of justice must have been largely inhibited by that very fact. The amount of real or potential defendants with deep pockets could conscientiously extort land, for example, from another Roman with meager resources. Therefore, the three layers of the judicial system that included the Prefecture, the Diocese and the province were thickly staffed, but surely did not see as many cases as there were supposed to be. Even then, we are told that the system was very congested.

The problem with accessibility forced the general populace to explore new venues. If justice could not be administered in many cases, the common inhabitants could still seek it through another channel. Ironically, the disenfranchised population sought a resolution to this situation amongst the segment of society, which was culpable of the original problem. The recourse was found in petitions. Since the judicial system was exclusive, petitions were a viable alternative.⁴⁹ They were no novelty to the period, as they were the accepted Roman method of voicing complaints to the authorities. In a

⁴⁸ It would require legislating against intentional delays of the litigation. The problem rests in the determination of what is a delay. In essence, if the judge were to make such a judgment, it would be grounded in subjectivity. Then again, a secondary issue may emerge: could this subjectivity also be purchased?

⁴⁹ For other venues (out of court) such as arbitration, negotiation and *episcopalis audientia*, see J. Harries, *Law and Empire in Late Antiquity*, 172-211.

previous chapter, such a mechanism was highlighted with Dioscorus of Aphroditos. Due to the poor state of the legal system, these very inhabitants lacking the financial resources for litigation requested the aid of wealthy landowners whose large estates became somewhat of an unofficial institution of the *municipia*. The great houses did not have any official public power in these specific instances. However, they did possess a certain form of formal public authority, due to the vast social, economic, cultural and symbolic capital they wielded. Though that does not preclude such families from holding several prestigious offices, but these were not directly pertinent to these petitions.

For example, there are instances of petitions made with conflicting jurisdictions and also one made to a wealthy woman. In the first case, writing to Apion in the middle of the sixth century, a certain Anoup sought relief from his debts. A misfortune caused his cattle to die and so he borrowed money to replace his losses. He was therefore unable to pay his taxes to Apion. Interestingly, Apion, being the Duke of Thebaid, had no jurisdiction over the affair, as Anoup was a *colonus* from Oxyrhynchus.⁵⁰ In another instance, a certain patrician named Sophia was the recipient of a petition.⁵¹ It is highly unlikely that she held any authority in the public arena of law due to that field's gender exclusivity.

There is thus a clear indication that these petitions did not necessarily have a direct link to the legal apparatus of the Empire. Then again, this may be a telling sign of the effectiveness of the apparatus itself. A semi-official institution seems to have been a better recourse for the common inhabitant of the Empire. In the past, petitions were made to local representatives, the governor and other officials, whose clearly defined

⁵⁰ *P. Oxy.* 1.130.

⁵¹ *BGU* 3.798. The date is not known with exactitude. The papyrus is dated to the later sixth to early seventh centuries.

jurisdictions and administrative positions were approved by the imperial machinery of government. That appears to have changed fundamentally. Moreover, this appears to be the emergence of an unofficial power structure parallel to the Roman legal system. In turn, this appears to be another area, which escapes both the systematization and predetermined results of a standard apparatus of the bureaucracy. This therefore creates another area in which aristocrats could wield disproportionate power by seizing power in an area outside the scope of regulation. Much capital, particularly social and symbolic, was made available to the great houses as a result.

Accessibility to the justice system was exclusive, despite the manpower involved and the resources spent. It had become so ossified by the beginning of the reign of Justinian that areas of uncertainty within it had been exploited to the utmost for a protracted period. Such areas included the real and phantom costs incurred by its use. The associated costs enabled whomsoever that had great resources to commit crimes willingly or unwillingly. In both cases, the perpetrator could easily escape the hands of justice if he or she possessed vast amounts of capital. Economic and social capital could purchase one's freedom and/or enable one to escape punishment due to an influential social network. Dioscorus of Aphroditos's story that was mentioned in the previous chapter illustrates this point. Pagarchs sought to squat on his town's *autopragia*. The pagarchs persisted, undeterred by the hefty players involved on Dioscorus' side, which included the Empress Theodora amongst others.⁵² In many respects, this is a glaring example of the systemic failures of the justice system. Local events and realities escaped the rather short reach of the capital. The zones of uncertainty enabled this phenomenon. The

⁵² For a brief overview of the conflict see Ch. 2; P. Cairo Masp. 67283; 67024.15-16; 67026; 67019; 67024; 67283; *Ed.* 13.

administration of justice was not often a reality for the majority of the population due to a significant gap in capital with the highest segment of the Roman social order. The more the imperial court attempted to systematize the legal apparatus, the more the former lost its power. The zones of uncertainty it had created coupled with the fact that the systematization entailed predetermined resulted in a deterioration of the hierarchy. The apex of the power structure in the hierarchy loses its power to govern. Repeated attempts to address the system's pitfalls were ineffective.

Above, accessibility was intertwined with corruption. However, corruption on its own in the legal system was rampant. Corruption stemmed from one of the perpetual problems associated to the government: the venality of offices. Because of it, arguably, the governor was perceived as the least reliable recourse in the courts. As a result, appeals flooded the dioceses, the prefectures and the capital. This caused tremendous congestion and was seen as a significant institutional nuisance in Constantinople.⁵³ The reason for this is a simple question of proportion. As mentioned in Justinian's reforms, particularly *Novel* 8, governorships were often purchased. Furthermore, the price tag was often recouped through practices that were both rife and illicit. Hence, the amount spent to purchase the office was a benchmark for a newly appointed governor. Evidently, meeting and surpassing that benchmark could not have been uncommon. Justinian was very adamant on eradicating the venality of the governorship due to a multitude of reasons. Ironically, Justinian himself condoned the practice prior to this law.⁵⁴ Prior to the 530's, governors were often the perpetrators and, the willing or unwilling accomplices of

⁵³ Justinian explicitly denounces this phenomenon in his reforms: *Nov.* 24.2, 5; 25.3, 6; 26.3, 5; 27.2; 28.8; 29.5; 30.10. It is required of the governor to handle appeals with a set monetary cap. Also, see

⁵⁴ *Nov.* 8 pr., 1; 28.4; 29.2; *Ed.* 4.1. Justinian condoning venality: *Proc., Anecd.* 21.

illicit actions. The latter is one of the major concerns of the capital. The governors were too weak in the face of local magnates.⁵⁵ The combination of this with the effects of venality made for a centralized government that lost its hold over the periphery.

There are multiple examples in the sources, which testify to this reality. In the *Codex Theodosianus*, it is succinctly detailed in multiple places. For example, a law of A.D. 383 states:

All trial judges and judges ordinary shall keep their hands off money and patrimonies, nor shall they consider another man's litigation as their prey. For a judge of private litigations who is at the same time a vendor shall be compelled to undergo the same loss of status and life as that which customarily involves those guilty of speculation.⁵⁶

The law is rather short, but very telling of the complications at the provincial level. Its few lines are a concise summary of the rampant corruption discussed here. Governors saw court cases as their "prey" for the sheer fact that *sportulae* were considered paradoxically to be illegal, but both accepted and standard. In court, governors could easily recover much of the expenses made in the purchase of their very own office. Three years later approximately, another law encourages whistleblowers to come forth to root out corrupt governors.⁵⁷ Yet it is reasonable to ask how many whistleblowers could come forth. The repercussions of whistleblowing could be devastating, particularly since the whistleblower more than likely would be a victim. By extension, a victim in all likelihood lacked the capital to withstand the fallout. In such specific cases, the governor was not an unwilling accomplice. He actively sought to fill his pockets. This evidently eradicated

⁵⁵ E. Stein, *Histoire du Bas-Empire*, 463-464; C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 84-86.

⁵⁶ *CTh* 9.27.5: Omnes cognitores et iudices a pecuniis atque patrimoniiis manus abstineant neque alienum iurgium putent suam praedam. Etenim privatarum quoque litium cognitor idemque Mercator parem capitis ac vitae, quae peculatus reos consuevit involvere, cogetur subire iacturam. (I here use Pharr's translation.)

⁵⁷ *CTh* 9.27.6.

any chance of a fair trial, particularly for those with more modest resources. Furthermore, it validates the claims of Priscus' interlocutor above. The inability to curb this phenomenon for centuries is manifest in later evidence. In A.D. 600, Pope Gregory reports that a governor of Sardinia accepted bribes from pagans. The pagans were essentially purchasing their right to practice their religion without legal ramifications.⁵⁸

However in other cases, the governors could be bullied. In the *Confessions*, Augustine recounts an episode of his friend Alypius. Although not a governor, as an *assessor*, he encountered a situation in which his ethics were put to the test. In Rome, certain senator, whose social and economic capital was formidable, attempted to bribe the court. Augustine describes his social network as extremely influential and his financial resources as considerable. The amount of capital possessed by the senator wreaked fear into those who were offered the bribes. In this case, the bribe was less attractive than provoking the senator's ire:

Alypius opposed. A bribe was offered. He laughed it off. Threats followed. He brushed them aside. People were astounded at this rare cheekiness, that he neither cultivated as a patron, nor feared as a foe, one famously equipped to advance or destroy careers in a multitude of ways.⁵⁹

In addition, Augustine also mentions a judge involved whose ethical standards appear to be below those of Alypius. The incident illustrates how one's titles, that is symbolic capital, can prove to be valuable not only in career advancement, but also in the social dynamics of every day life. Those with higher ranks could use their symbolic capital

⁵⁸ Pope Greg., *Ep.* 5.38.

⁵⁹ Aug., *Conf.* 6.10.16: ...restitit Alypius. promissum est praemium; inrisit animo. praetentae minae; calcavit, mirantibus omnibus inusitatam animam, quae hominem tantum et innumerabilibus praestandi nocendique modis ingenti fama celebratum vel amicum non optaret vel non formidaret inimicum. (I here use Wills' translation.)

against those who held inferior titles.⁶⁰ More importantly, the senator here demonstrates how valuable social and economic capital was in the period. It could be used for well-intentioned endeavors, but also for unlawful purposes. In this case, we might recognize how the courts could be corrupted from without and not only from within. For this reason, Justinian attempted to rehabilitate the provincial governors in his reforms.⁶¹ Their status diminished their ability to withstand the impetus of the powerful elite. In essence, the judicial system was under siege. Justice had become a word whose definition was in flux.

As it has now been determined, the Roman court system was large with limited accessibility and rather corrupt. With these characteristics defined, it appears that the system's overall efficiency cannot prove to be anything less than detrimental. There are many areas in which a bureaucratic layer seems to have had no true value within the system itself; that many were relics of well-intentioned designs. This ossification of select areas of the bureaucracy served as the breeding grounds for corruption; it inhibited adaptability to new challenges and thus created areas within the bureaucratic machinery that fomented uncertainty. In turn, uncertainty enabled systematic exploitation. The *sportula* is a great example of this. It was illegal and yet became standardized due to the imperial administration's inability to tie up loose ends. Marcian's *Novel* 1 serves as an illustrative example. Despite this law being issued, the practice was well alive in the fourth, fifth, sixth and even seventh centuries.⁶² This is not a testament to the ineffectiveness of laws. On the contrary, it is an illustration of the central administration

⁶⁰ For discussion, see E. Stein, *Histoire du Bas-Empire*, 463-464; C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 34-35; P. Sarris, *Economy and Society in the Age of Justinian*, 149-175; T. Honoré, *Law in the Crisis of Empire* (Oxford: Clarendon Press, 1998), 23-25.

⁶¹ *Nov.* 24-30.

⁶² Marcian, *Nov.* 1.

ineffectiveness at shutting down zones of uncertainty. Laws could be created, but one stark reality remained. If an emperor were intent on stamping out the *sportula* system, a thorough diagnosis of the situation would be necessary. In other words, the imperial court would have to determine what was the system of causation that led to its inception, persistence and endurance. Threatening to apply the law to the law is a paradox in itself. In other words, creating legislation with stiff punishments to a body that is tasked with applying the law appears to be a cul-de-sac. That is not to mention the potential blowback whistleblowers might face when taking into account the account of Augustine above. Reform could have limited effects to rectify the situation. The legal system, as proposed above, was so thoroughly systematized and ossified, that attempts to enforce verticality in the hierarchy became futile.

EVALUATING THE BUREAUCRACY'S PERFORMANCE:

I) THE JUDICIAL SYSTEM

The effectiveness of the judicial system was dismal. Many areas proved to be either redundant or obsolete. Redundancy and obsolescence are defined as follows. With respect to the former, a certain branch of the bureaucracy might have duties that are duplicated in another for no rational purpose. The latter proves that one layer of the administration might serve no valid purpose in the machinery of government. Or it might also have grown to serve little purpose despite the long list of duties it theoretically had. The consulship in the sixth century illustrates this point. In the next few pages, the judicial system will be analyzed in that light. As it has been determined above, it was not a small sector of the bureaucracy. It was rather large and so an assessment of its bureaucratic

efficiency should demonstrate roughly a proportional relationship between its size and performance.

However that is not truly the case. An entire layer of its bureaucracy served very little purpose. The Diocese was intended to serve as an intermediary in the court system between the capital and the province. The hierarchy was not as clear-cut as it is in the *Notitia Dignitatum*, as there were many appeals, which defy its order. Nonetheless, the value of this bureaucracy evolved greatly over the centuries since its establishment. A.H.M. Jones argues that the diocese ceased to function in the fifth century.⁶³ However, that is only partially accurate. In A.D. 548, Justinian restored the Vicar of Pontus for two reasons. Inter-provincial crimes were on the rise and the appeals system appears to have still been a nuisance to Constantinople.⁶⁴ The edict does not necessarily mean that the Vicariate of Pontus was an absolute essential in the administration of justice. Though it does signify a persistent issue within the appeals system, which is largely systemic. In addition, it also speaks of the lack of foresight in *Novel 8*, which effectively abolished the office. Thereafter, inter-provincial crime thrived due to the governors' unwillingness to leave the boundaries of their jurisdictions, which would incur additional expenses. Moreover, the official slated to help and stifle crime would not be present.⁶⁵

As a whole, the Diocese fell victim to institutional evolution to which it had not adapted. Instead it ossified, but maintained relatively the same amount of personnel. Generally, ossification seems to have been somewhat of an eventuality within the bureaucracy. The vicar was already losing ground in fiscal matters to the Praetorian Prefecture. The latter sent *tractatores* as deputies in the provinces, as mentioned above.

⁶³ A.H.M. Jones, *The Later Roman Empire*, 284-602, 374.

⁶⁴ *Ed. 8*, pr.

⁶⁵ *Ed. 8*, pr.

Although that is unrelated to the court system, it is illustrative of the office's evolution. In the system of appeals, the Diocese was often leapfrogged. Small cases would make their way to the highest judges and not to the intermediary judges.⁶⁶ Returning to Jones' assertion about the Diocese, there is some validity. Throughout the late fifth and into the sixth centuries, Constantinople began to recognize that the vicariate could be trimmed considerably and even abolished in certain places. Anastasius did away with the Diocese of Thrace only to restrict two vicariates to the Long Walls.⁶⁷ These two were military and civil vicars that would proceed to be troublesome for the central administration. According to *Novel* 26, Justinian grew tired of both offices and disparaged them; he claimed that their primary goal had become to quarrel with one another. Therefore, he decided to eliminate both offices.⁶⁸ Justinian also proceeded to dispose of the Dioceses of Asiana and Oriens.⁶⁹ These were added to the list, which already included Pontus, the Long Walls and Thrace. Yet, as it was mentioned above, Pontus' diocese was restored, but with a considerable overhaul.

In addition, the Diocese of Thrace was later reestablished, but at an unknown date. An inscription dating from A.D. 567 testifies to this development. Interestingly, the inscription does not specify the type of the vicar involved.⁷⁰ I am inclined to agree with

⁶⁶ *Nov.* 23.3; *maiores*, *medii* and *minores* are the three distinctions made referring to the praetorian prefect, the vicar and the *praeses*, respectively.

⁶⁷ The abolishment of the office is not directly mentioned in the sources. It is not listed in the monumental *Novel* 8. The date is debatable, as it is linked to the wall's construction. A.D. 497 is proposed by: A.H.M. Jones, *The Later Roman Empire, 284-602*, 374-375. Others propose the years A.D. 503/4: J.B. Bury, *History of the Later Roman Empire from the Death of Theodosius I to the Death of Justinian*, 2 vols. (New York: Dover Publications, 1958), 1.435; C. Capizzi, *L'imperatore Anastasio I* (Rome: Pont. Institutum Orientalium Studiorum, 1969), 203; A. Cameron, "The Date of Priscian's *De laude Anastasii*," *GRBS* 15 (1974).

⁶⁸ *Nov.* 26, pr.

⁶⁹ *Nov.* 8.

⁷⁰ [Φλαβίου Ἰουστίνου] αἰωνίου Αὐγούστου καὶ αὐτοκράτορος [ἐ]τους ἑνδεκάτου, καὶ Φλαβίου Τιβερίου Κωνσταντινοῦ τοῦ εὐτυχεστάτου ἡμῶν Καίσαρος, ἑτοθς δευτέρου [iv]δ(ικτιῶνος)

Jones's proposition that the restoration of this very office occurred under Justinian. He does not provide a reason for this assertion, but in all likelihood it was a result of the Kutrigur and Bulgar invasion in A.D. 558-559. The united tribes pillaged Greece, Thrace and even marched on the capital. One segment of their army was able to breach the Long Walls. If this was not the event that caused the restoration of the office, it may have happened in the fifteen years prior to the combined Kutrigur and Bulgar invasion. A series of peoples pushed across the Danube and wreaked havoc in the Balkans, including Thrace.⁷¹ Taking into consideration the historical context of its restoration and the perpetual difficulties the Romans encountered in the same geographic area in the sixth century, it appears the vicar would not have been of the civil nature. Most likely the office would have been bound to the military due to the considerations just listed above. The revived vicar most likely had no judicial responsibilities.

There is one broad trend regarding the diocese. Justinian and the central imperial administration considered this specific part of the bureaucracy to be expendable. The conscious efforts to shed off this administrative unit like dead weight were no coincidence. However, some of its functions were still valued, such as inter-provincial policing. Yet generally the diocese in many respects ceased to be of any great administrative value, unlike the Praetorian Prefecture (which would later suffer the same fate). A.H.M. Jones's assertion that the diocese ceased to function in the fifth century

[Θ'] ἐπὶ Ἀρμάτου Βικαρίου Θρακῆς, διὰ Χρυσαφίου ἐργολάβου: *CIG* 8646; *SGLIBulg* 198; C.J. Tissot, "Antiquités d'Eski-Zaghra," *BCH* 6 (1882). See A.H.M. Jones, *The Later Roman Empire*, 284-602, 231; B. Croke, "The Date of the 'Anastasian Long Wall' in Thrace," *GRBS* 23 (1982), 71-74.

⁷¹ Kutrigur and Bulgar invasion of A.D. 559: Malalas, *Chron.* p. 490; Agath., *Hist.* 5.11-23; Theophanes, A.M. 6051; Bulgar invasion of Illyricum (A.D. 544): Proc., *Hist.* 3.11.15; Slav invasions of the Balkans (A.D. 548 and 550-551): Proc., *Hist.* 3.29.1-3; 3.40.1-7, 30-45.

requires emendation.⁷² The diocese in fact ceased to be a necessary unit in the bureaucratic machinery. With regard to administrative capability, it lost most of its judicial and fiscal value. Inter-provincial policing would require much less than the diocese to be effective. Its diminishing value can be noticed in the sources. As it was proposed in a previous chapter, the level of silence in the sources regarding an office is proportional to its value. Moreover, it appears that obsolescence was not the only concern. Corruption was very common and so not only was this branch of the bureaucracy unnecessarily absorbing imperial expenditures due to its lack of value, but also due to illicit behaviors. In fact, G. Tate proposes that John the Cappadocian's reforms were intended to eliminate the intermediary levels between he himself and the provincial administration. The objective of this was to eliminate as much unlawful behavior as possible. This includes: an illicit cooperation between bureaucrats and magnates, magnates playing off bureaucratic rivalries in the administrative hierarchy and illegal land annexations.⁷³ In fact, above, we have seen that these were realities that plagued the justice system prior to Justinian's reforms.

The strata of the judicial system were in some respects wasteful for an empire in such dire straits fiscally. The reason for this bold statement is rather simple. T. Honoré summarizes this succinctly when explaining that the application of Roman Law (and the imperial government in general) was at the mercy of provincial social dynamics.⁷⁴ The provincial court system was intended to be a first line of defense in the appeals and court

⁷² A.H.M. Jones, *The Later Roman Empire, 284-602*, 374.

⁷³ For competition amongst bureaucratic branches, see G. Tate, *Justinien: l'épopée de l'Empire d'Orient*, 527-565, 662-663. Jones also proposes that the vicariates were abolished for economic reasons (in addition to simplification): T.F. Carney, *Bureaucracy in traditional society: Romano-Byzantine Bureaucracies Viewed from within*.

⁷⁴ T. Honoré, *Law in the Crisis of Empire*, 23-25.

system, but it never truly was. Appeals were clogging the system. The ultimate judge in the provinces, the governor, had become institutionally weak, as *dynatoi* could massage the process. Furthermore, when the governor did preside over court cases as judge, the party whose pockets were deepest defined justice. To make matters worse, the stratum above it, the diocese, had largely grown to become institutionally hollow in the judicial machinery. In sum, the justice system prior to Justinian's reforms was not truly a *justice* system. It was an amalgamation of many bureaucrats who finagled or enabled the corruption of the process in every way possible. Hence, the relationship between size and effectiveness is entirely disproportional. Its size, elaboration, complexity and hierarchy were in some respects a veneer masking a decrepit nucleus.

Zones of uncertainty were plentiful, ossification was its trademark and therefore laws attempting to punish the perpetrators were hopeless. The system utterly failed to fulfill its duties. For example, in the case of *sportulae*, much of the court process was systematized. Laws were enacted, the pecuniary brackets for appeals determined, lawyers were hired, the summons issued, the delivery of the plea was made and judges were appointed to hold court at specific locations. Litigants were to travel to that designated court and plead their case. However, the *sportula* became a standard yet unofficial fixture of the process.⁷⁵ As the procedures were not thoroughly systematized prior to the beginning of a case, a judge could easily welcome an "auction" with the *sportulae* being the bids. However, the highest bidder purchased the judge's partiality. Threats of punishment for this illegal behavior were made in laws, such as those mentioned above,

⁷⁵ Di Segni et al. detail inscriptions from Caesarea Maritima that list numerous *sportulae* for the public. Some are actually standardized for most provinces. The article mentions that *sportulae* were regulated. However, mention of the bribes paid to the judge is not made: "A Schedule of Fees (Sportulae) for Official Services from Caesarea Maritima, Israel," 273-300.

but the system saw no true change to its structure. This thus enabled the exploitation of the phase immediately preceding a trial. In addition, the judge was not the only player vying for control of this area. External players could also temporarily assume control and subjugate the judge through threats of retaliation. Therefore, unofficial parallel power structures were a reality of the process. Capital, particularly social, economic and cultural, were of utmost importance in the control of these zones.

In theory, bringing forth a legitimate case to the authorities and hiring a lawyer were two elements that appeared to be sufficient according to the official process. Yet the creation of these parallel power structures caused the judge's decisions to be thoroughly disjointed from Roman jurisprudence. In other words, his mission in his field was disengaged from that of the administration, which he served. Conclusively, change was needed, but fundamental reform might only bridge this gap. Legislation with threats of punishment could only be symbolic and produce meager results. For example, *CTh* 9.27.6 encourages whistleblowers to come forth, but the law could only be inept for the most part. If the case involved one or more defendants with considerable capital, the accuser would likely suffer repercussions. This was a systemic problem that was compounded by the fact that the entire justice system was far from lean.

II) THE GOVERNORSHIP

Above, the provincial administration was revealed to be rather large in size. Provinces were small, its military and civil branches were separate and governors had large staffs. In a previous chapter, it was also established that curiales sought greener pastures in the expanded imperial bureaucracy. Many of those left behind were not of the same pedigree,

as the wealthier components of the town councils obtained better offices that rewarded them with a more considerable amount of capital. In this section, I will allude to that particular discussion, but the focus will be on the topics mentioned just above. Namely it will be ascertained whether the smaller provinces and their bureaucracies were effectively accomplishing their tasks. Again here the assessment will be targeting institutional redundancy, obsolescence and corruption.

There is much to be written about the system implemented by the Tetrarchs. The governor headed the civil branch of his province and was mainly responsible for fiscality and for the administration of law. The governor was entitled to a staff that was usually limited to one hundred officials. In some cases, that number could swell up to four or even six hundred, as was the case for the proconsul of Africa and the *dux* of Egypt.⁷⁶ However, effectively he was not accomplishing roughly half of his task, which principally fell in the maintenance and application of Roman law. In the area of fiscality, the governor was in a rather precarious position. Many factors were making this portion of his duties unsustainable. The municipal councils were faltering due to the fundamental transformation caused by the Tetrarchic reforms. These administrative units were denuded of their most prized members, the *principales*. Yet other important developments rendered the governorship a shadow of its former self. The institutional decay of the office will be investigated in the two following areas: titulature and fiscality.

The governor's titulature and its relationship to the changing social dynamics in the province are important to the understanding of the office's institutional decline.

During the Late Republic and the High Empire, governorships were highly valued

⁷⁶ For the proconsul of Africa: *CTh* 1.12.6; for the *dux* under Justinian: G. Rouillard, *L'administration civile de l'Égypte byzantine* (Paris: Les Presses Universitaires de France, 1928), 42.

amongst the politicians in Rome. Governors held much more power within their jurisdiction, as there was a lack of intermediaries between themselves and the capital. Provinces were seen as prey for a multitude of rapacious practices, including extortion, embezzlement and the intentional misapplication of law. One might recall a few incidents that illustrate this point. Verres and Appius Claudius Pulcher's machinations and Juvenal lamenting the practice in the early imperial period serve as great examples.⁷⁷ These practices eventually persisted for centuries, but the symbolic capital associated to the office diminished significantly over time. This was especially the case after the Tetrarchs overhauled the administration. Economic capital was still readily available to be had in the provinces, but more lucrative ventures became available to the aspiring Roman politician. The governorship in fact tumbled significantly down the pecking order in the larger scheme of things administratively.

After the late fifth century, epigraphic evidence for governors is very scarce. As argued in similar circumstances, this appears to be an indication not of the office's disappearance but of its cultural, social and political insignificance. Its substance was not indispensable in the acquisition of social capital. Moreover, in the same regard it did not carry the symbolic capital it once did. It did, however, serve as a venue to acquire considerable economic capital. As a result of this institutional development, an inversely proportional phenomenon developed. The more the governorship became insignificant the more local magnates became formidable and immovable fixtures in the periphery.

These notables did not originate from the municipal councils for the most part as they

⁷⁷ Verres, as Governor of Sicily, extorted bribes from wealthy landowners amongst other corrupt practices: Cicero, *in Verrem*. Cicero succeeded Appius Claudius Pulcher as Governor of Cilicia. The latter was involved in a money-lending scheme with Brutus. The people of Salamis fell victim to their predatory practices: Cicero, *Ep. ad Atticum* 5.21. Juvenal describes the practice of plundering provinces in *Satire* 8.87.

once did. They were very powerful with social networks that spread far and wide. They held prestigious offices that were far above those of a curialis; some were pagarchs and others senators, for example. Centuries earlier, Verres and Appius Claudius Pulcher could muscle their way into the pockets of provincials while at the head of a province. By the fourth century, the opposite could be said. Two laws are rather revealing and both underline the problems caused by status discrepancies. Governors were confronted with subjects that had loftier titles than themselves. This in turn enabled flagrant disregard of the governor's authority.⁷⁸ By the early sixth century, the opposite could be said. Governors were not even able to withstand the power of influential magnates.⁷⁹ In fact, Justinian's provincial reforms of the 530's largely targeted this issue. Yet, the problem persisted through his reign. On the eve of these very reforms, notables essentially had many zones of uncertainty at their disposal to exploit. They could injure the less wealthy without the fear of repercussion, they could compromise the justice system thanks to their tremendous amount of capital, they could finagle their way out of paying taxes and they could distort realities on the ground in the chain of communications to the capital. These are some amongst many other possibilities that could be exploited.

In Italy, C. Roueché sees an effort to rehabilitate the governor after the reconquest. Yet the sources do not necessarily appear to support that proposal.⁸⁰ The Roman Empire had just regained control over the territory before the issuance of the Pragmatic Sanction. The law itself was designed to ratify officially Roman administrative control. By extension, the Pragmatic Sanction thus reiterates what was done institutionally to the

⁷⁸ *CTh* 12.1.150; *Theod. Nov.* 15.1.2.

⁷⁹ E. Stein, *Histoire du Bas-Empire*, 463-465; C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 83-85.

⁸⁰ C. Roueché, "The Function of the Governor in Late Antiquity: Some Observations," 31-36.

governorship in the 530's when *suffragia* were specifically outlawed in the selection process of officials. Interestingly, the law grants local notables and bishops the power to elect their governor. This further debilitated the status of the governor, as he would be indebted to those who voted him into office. The effort was designed to extirpate the consequences of venality and not to enhance the governor's status. The latter seems to have been of no concern, as the law did the opposite. The law was a capitulation to the realities on the periphery. This is illustrative of the occurrence in the judicial system, where systematized procedures and pre-determined results inhibited the apex of the hierarchy to exert its vertical authority.

The weakening of the governorship entailed many consequences that were detrimental to the central government. The governor's deteriorated status hindered any pursuit of justice against notables, particularly in fiscal areas.⁸¹ One case discussed above demonstrated how a senator's capital could be converted into illicit behavior, namely circumventing the judicial process.⁸² This was a considerable problem for the central government, especially in fiscal affairs. One development that occurred in the early sixth century was designed to ensure the proper functioning of the fiscal machinery, particularly with respect to the notables. The *vindex* was an official, likely designated by the praetorian prefect, whose role was to supervise tax collection in the cities. However, the extent to which this office was implemented is highly debatable.⁸³ Furthermore, as

⁸¹ In the previous chapter, Dioscorus and his father's confrontations with notables was highlighted. One might notice the governor's near irrelevance in the saga. Repeatedly the governor was bypassed in the dispute. Dioscorus' conflict with Julianus had Justinian send the governor to investigate. Yet, we do not know of any outcome: *P. Cairo Masp.* I 67024. We do know that Julianus did not relent thereafter.

⁸² See above (Aug., *Conf.* 6.10.16.)

⁸³ See discussion in Chapter 1. *Nov.* 128.5 puts the offices universality into doubt. J.H.W.G. Liebeschuetz and A. Laniado also believe the official's expanse was not as universal as the

mentioned above, the *tractatores* were appointed by the praetorian prefect to oversee tax collection.⁸⁴ Taxation was already a constant challenge for Constantinople. Corruption within this particular area remained a problem, as it had been for some time. It will be central to the subsequent section of this analysis. At any rate, although there are many examples of illicit behavior in the fiscal apparatus of the empire, the governor once had the capacity to administer justice in the case of fraudulent behavior, notably in the case of magnates. However, by the time of Justinian's early reign the governor had long lost the ability to do so.⁸⁵

Certain individuals could withstand the governor's judicial inquisitiveness. Pagarchs possessed a high degree of symbolic capital and could withstand almost any onslaught in such situations. The pagarchy itself was a duty assumed by the great aristocratic families. Also, in the case of notables, the capacity to exercise physical power was not negligible.⁸⁶ J.E. Lendon states:

Yet it was precisely those local strongmen, with their castle-like houses and their swarms of well-armed slaves and club-wielding tenants, whose force could dwarf that which the Roman had at his disposal. When official

sources declare: J.H.W.G. Liebeschuetz, "The Origin of the Office of the Pagarch," 41; A. Laniado, *Recherches sur les notables municipaux dans l'Empire protobyzantin*, 29-33.

⁸⁴ See above (Ed. 13.9-12; 27; Eustratius, *V. Eutych.* 68.)

⁸⁵ There is a gradual decline of the *vindex* for example. Many officials appointed to oversee municipal affairs lose their authority to the *principales*. See R. MacMullen, *Roman Social Relations, 50 B.C. to A.D. 284* (New Haven: Yale University Press, 1974), 6-12, 34-37; *Corruption and the Decline of Rome*, 84-86; L. Foxhall, "The Dependent Tenant: Land Leasing and Labour in Italy and Greece," *JRS* 80 (1990), 97-114; P. Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire*, 26-27.

⁸⁶ For pagarchs: P. Petit, *Libanius et la vie municipale à Antioche au IV^e siècle après J.-C.*, 71-76; R. Ganghoffer, "L'évolution des institutions municipales en Occident et en Orient au Bas-Empire" (Thèse, Strasbourg, 1963), 157-158. Also see J. Gascou, "La détention collégiale de l'autorité pagarchique dans l'Égypte byzantine," *Byzantion* 42 (1972), 60-72. J.H.W.G. Liebeschuetz almost equates the *vindex* to the pagarch in R. Mazza, "Ricerche sul pagarca nell'Egitto tardoantico e bizantino," 186-196. For a discussion on the pagarchy and its ability even to withstand Justinian, see Chapter 2. For the power of local aristocrats to collect taxes and rent: Apuleius, *Met.* 9.35-38; Philostratus, *Life of the Sophists* 2.1; "The Pagarch: City and Imperial Administration in Byzantine Egypt," *Journal of Juristic Papyrology* 18 #163-168 (1974).

and local strength clashed, local strength often won. In the empire the power to collect taxes might well presuppose, also, the power to resist taxes.⁸⁷

Moreover, the ability to resist paying taxes could be made possible by fortified houses and armed force.⁸⁸ However, that was not a commonality, but nonetheless it testifies to the disparity of power between the governor and notables under his jurisdiction. Instead of violence, notables pursued less confrontational means in such areas as tax evasion by using varying forms of capital. For example, using one's social capital was a simpler method by which tax evasion could be achieved. Phantom *officiales* are great illustrations of this behavior. Bureaucrats of this sort, in theory, held offices in municipal councils, but, in practice, would circumvent the rules by exploiting zones of uncertainty.⁸⁹ Then again, using one's symbolic capital to intimidate any official's investigation or court case could also achieve the same ends.⁹⁰

⁸⁷ J.E. Lendon, *Empire of Honour: the Art of Government in the Roman World*, 6-7.

⁸⁸ Justinian issued a law against the private use of soldiers in A.D. 542: Nov. 116. For *bucellarii* and the potentialities of armament and fortifications, see H.J. Diesner, "Das Bucellariertum von Stilicho und Sarus bis auf Aetius," *Klio* 54 (1972), 321-350; P.A. Brunt, "Did Imperial Rome Disarm Her Subjects?," *Phoenix* 29 (1975), 260-270; J. Gasco, "L'institution des bucellaires," *Bulletin de l'Institut français de l'archéologie orientale* 76 (1976), 143-156; B.D. Shaw, "Bandits in the Roman Empire," *P&P* 105 (1984), 38; J.H.W.G. Liebeschuetz, "Generals, Federates and *Bucellarii* in Roman Armies around A.D. 400," in *The Defence of the Roman and Byzantine East*, ed. P. Freeman and D.L. Kennedy (Oxford: B.A.R., 1986), 463-474; K. Hopwood, "Towers, Territory and Terror: How the East Was Held," in *The Defence of the Roman and Byzantine East*, ed. P. Freeman and D. Kennedy (Oxford: B.A.R., 1986), 343-356; R. MacMullen, *Corruption and the Decline of Rome*, 72-73, 94-96; O. Schmitt, "Die Bucellarii: Eine Studie zum militärischen Gefolgschaftswesen in der Spätantike," *Tyche* 9 (1994), 147-174; J.E. Lendon, *Empire of Honour: the Art of Government in the Roman World*, 7.

⁸⁹ *Officiales* were generally exempt from curial duties. Therefore, their properties were not subject to the municipal council and they were excused from funding public endeavors. Seeking to live in obscurity in the governor's office: *CTh* 12.1.134; traveling to avoid duties: 12.1.143; committing to shifty contracts to avoid duties: *CTh* 3.1.8; for evidence in the High Empire, Dio Chrysostom, *Orat.* 20.2; Ulpian, *Digest* 50.5.1. Both mention curiales moving to the countryside in order to evade duties. Also, see P. Petit, *Libanius et la vie municipale à Antioche au IV^e siècle après J.-C.*, 334.

⁹⁰ Again, see above (Aug., *Conf.* 6.10.16). Also see the case of Dioscorus of Aphroditon and his struggle with local pagarchs: *P. Cairo Masp.* III 67283, I 67024, I 67002 and *P. Lond.* V 1674.

In the immediate period leading to the early reign of Justinian, the sources do not reveal a common trend of overt violent opposition to the central government. Yet, there is the occasional exception such as the case of Valerianus of Emesa.⁹¹ Otherwise, there is a multitude of instances in which notables resorted to subterfuge in order to achieve their objectives. Such machinations more than often involved the exploitation of zones of uncertainty. For example, local aristocrats craftily forfeited their property in order to exempt themselves from serving on their municipal councils. Such a ruse appears to have been common until laws were issued.⁹² Challenges facing the imperial government were not only limited to the governor's subjects. The governor could conspire with many elements in order to fill his pockets. There is evidence of governors purchasing the silence of imperial superintendants and sharing the spoils with their staff and their superiors.⁹³

The governorship's titulature was not of particular help in disputes, which involved individuals from superior tiers of the hierarchy. For the most part, governors held the grade of *praeses* prior to the end of the fourth century. This grade was associated

⁹¹ *Novellae Theodosiani* 15.2: Valerianus built a coalition of decurions in Emesa to oppose the governor. He is said to have usurped the rank of *illustris*. Yet he more than likely did not. There are plenty of instances in the *Codex Theodosianus*, which illustrate a concerted effort to reduce social mobility particularly with respect to municipal councils. The rank itself exempted Theodosianus from service in the council. He rushed into the governor's council chamber with a large cohort and physically intimidated the emperor's representative, who eventually was forced to evacuate the premise with his retinue. The chamber was subsequently ransacked. In addition, Valerianus and his allied decurions appear to have been rather furious about taxation. An ambiguous reference is made to tax fraud. Moreover, violence and intimidation was used to repel imperial tax collectors. Valerianus was eventually stripped of his rank. Interestingly, otherwise, the punishment appears to have been rather light. Valerianus surely was a man of considerable wealth and influence for him to have escaped harsher punishment. Also, for the ability to resist taxation, see Amm. Marc., *Hist.* 16.5.15 and J. Matthews, *The Roman Empire of Ammianus* (London: Duckworth, 1989), 89.

⁹² For property alienation, see *CTh* 12.3.1-2.

⁹³ *CTh* 11.16.7; *CJ* 8.13.1. Also see P. Veyne, "Clientèle et corruption au service de l'État: la vénalité des offices dans le Bas-Empire romain," *Annales* 36 #3 (1981), 352.

to the rank of *perfectissimus*. Thereafter, most governors received the superior grade of *consularis*, whose *clarissimus* rank was of a higher dignity. Above the *clarissimi* was the first tier in which many individuals with significant amounts of capital lied. The *illustres* contained the likes of praetorian prefects, urban prefects, masters of soldiers and major palatine officials.⁹⁴ Yet, there is evidence that actually demonstrates a much longer timeframe. Cappadocia I's governor, for example, does not receive a promotion of grade to *consularis* until the very beginning of Justinian's reign. Meanwhile, the governor of Cappadocia II did not receive the same promotion until Justinian's reforms of the mid 530s.⁹⁵ However, based on conjecture, there is a possibility that the elevation from *perfectissimus* to *clarissimus* occurred before this timeline.⁹⁶ By the fifth century, in order to make further distinctions amongst the upper tier the titles of *magnificentissimus* and *gloriosissimi* were added. Pagarchs too acquired such lofty titles.⁹⁷ Nevertheless, prior to Justinian's provincial reforms, governors were at a distinct disadvantage in any endeavor, which involved notables from the upper tiers of the hierarchy. Some of them who were inferior with respect to administrative duties could be of a significantly higher dignity, such as a pagarch. This conflict of status diminished the authority of the governor. It

⁹⁴ For an informative survey, see A.H.M. Jones, *The Later Roman Empire, 284-602*, 378-379, 543-544.

⁹⁵ For Cappadocia I: Hier., *Synecd.* 631.4. For Cappadocia II: *Nov.* 8, 30.

⁹⁶ There are no sources to date indicating this change. However, for a logical deduction reaching the conclusion that the change occurred in the second half of the fourth century. See A.H.M. Jones, *The Later Roman Empire, 284-602*, 378-379, 527-529; G. Dagron, *Naissance d'une capitale: Constantinople et ses institutions de 330 à 451* (Paris: Presses Universitaires de France, 1974), 158-165; S. Métivier, *La Cappadoce (IVe-VIe siècle): une histoire provinciale de l'Empire Romain d'orient* (Paris: Publications de la Sorbonne, 2005), 100-128.

⁹⁷ Pagarchs such as Patricia and Theodosius of Aphrodito donned the titles *gloriosissima* and *magnificentissimus*, respectively (*PLRE* 3.2, Patricia 1 and *PLRE* 3.2, Theodosius 9). Also, see A.H.M. Jones, *The Later Roman Empire, 284-602*, 543-544.

appears to explain the minimal involvement of the governor (*dux*) in Dioscorus' run-ins with neighboring pagarchs.

Whether it be in taxation or in judicial affairs, governors stared at a significant gap in symbolic capital with their colleagues that held superior titles. This gap inhibited any pursuit of justice against individuals that held the title of *clarissimus* (in some cases), *magnificentissimus*, *gloriosissimi* and *illustris* (in all cases). Even in cases of equal standing with respect to dignities, the scale could tip to one side due to a disparity in capital. In large part due to their enormous amount of capital, magnates could ignore the arm of the law. There are several incidents in the sources, which account for this reality.⁹⁸ One interesting example can be found in an incident involving Constantius II and Rufinus. Investigators, including the Praetorian Prefect Mavortius and the Count of the Sacred Largesses Ursulus found Rufinus guilty of conspiring with a woman against her husband. This led to the execution of both Rufinus and the woman in question. Because Constantius II held Rufinus in high regard,⁹⁹ he denounced the investigators and demanded clarification. Ursulus came to the emperor's court only to have his passage barred physically by courtiers, surely connected to Rufinus, from accessing Constantius II. Ursulus, in danger due to the relationship between the emperor and Rufinus, broke

⁹⁸ *CTh* 9.1.17 (= *CJ* 9.2.15). Also, see *P. Thead.* 15. A certain Syron took advantage of a woman's predicament (she was recently widowed). He had her entire troupe of cattle stolen. However, he never appeared in court. Syron's lawyer thereupon declared that he would appear when he could because he was away on business related to the fisc.

⁹⁹ Rufinus acquired significant social capital by gaining Emperor Constantius II's trust. Ammianus Marcellinus describes highly ranked critics of the same emperor being denounced at a social gathering. The story eventually came to the attention of Rufinus, who then proceeded to relay the story to the emperor. The suspects, Africanus and his associates, were thereupon executed: *Amm. Marc., Hist.* 15.3.8-9; 16.8.3. It also earned Rufinus symbolic capital in the form of an office, the leader of the Praetorian Guard: *Amm. Marc., Hist.* 16.8.3.

through the courtiers to state the truth.¹⁰⁰ In this case, the two investigators did have more symbolic capital than Rufinus, a *princeps officii* of the Praetorian Prefect of Illyricum and a leader of the Praetorian Guard.¹⁰¹ However, Rufinus' social capital was very considerable due to his proximity to the imperial court. A standard governor would most likely not have the opportunity to break through a wall of courtiers to have a man of such power prosecuted. He would almost certainly not be a governor for that matter, if he could. As mentioned above, the office fell victim to administrative inflation, which significantly devalued the symbolic capital attached to it. It is no coincidence that epigraphic evidence for governors in Late Antiquity substantially declines.

Although the following account does not directly relate to the titlature of the governor, it is illustrative of the social dynamics stemming from symbolic capital. Symmachus describes an incident in which Valerianus, a *vir clarissimus*, ignored the calls of Praetor Junior, a man of equal rank. After Valerianus persisted in his ways, Symmachus was defeated and had to resort to the emperor, beseeching him “*soli enim iure corrigitis admissa potissimae dignitatis.*”¹⁰² In *Relatio* 28, Symmachus is aware of his vulnerability in the administration of justice specifically when a perpetrator happened to be a member of the senatorial aristocracy.¹⁰³ Individuals, who reached such heights as the title *illustris*, did not do so haphazardly. Significant connections had to be made, wealth accumulated and prestige stockpiled; social capital amassed through extensive networks, economic capital through careers and all that was attached to them, and in the process

¹⁰⁰ Amm. Marc., *Hist.* 16.8.

¹⁰¹ *PLRE* 1, Rufinus 2.

¹⁰² Symm., *Rel.* 31.17.

¹⁰³ Symm., *Rel.* 28; *P. Thead.* 15 also indicates how an imperial official could draw out the judicial process. Syron was not present to defend himself due to his duties serving the treasury. He allegedly exploited a newly widowed predicament by having her flocks stolen.

both titles and ranks added to growing dossiers. Simultaneously all three forms of capital could be causative vectors and/or subsidiaries of the others. As a result, this made any effort to investigate corruption within these upper strata rather perilous to a governor who did not have the necessary social nor symbolic capital. The potential fallout of such an enterprise could have proven disastrous to the individual of less stature.

The governor's titulature and its decline appear to have been a problem without solutions. The administrative complexity of the Empire created an insurmountable gulf between the center and periphery. The pursuit of renewed control over the provinces was rendered impossible by the layering of bureaucratic structures between the imperial court and the provincials. Whatever bureaucratic institution was created to facilitate control seems to have done the opposite. It was absorbed by the problem in a similar fashion to that of a spy becoming a double-spy.¹⁰⁴ The evolution of the imperial administration in Late Antiquity assured this development. The way in which the bureaucracy was structured and the way in which it was intended to function created a significant gap between the apex of the pyramid and, in theory, its subjugated strata. The rationalization and expansion of the Roman bureaucracy stripped the emperor of much of his control and influence over the periphery. Justin II would later confirm this weakening of verticality in A.D. 569, but this was not limited to Italy as in the Pragmatic Sanction.¹⁰⁵ It appears that only a complete collapse would enable the Empire to rehabilitate its ability to govern effectively.

¹⁰⁴ C. Lepelley, "Quot curiales, tot tyranni. L'image du décurion oppresseur au Bas-empire," in *Crise et redressement dans les provinces européennes de l'Empire (milieu du IIIe-milieu du IVe siècle ap. J.-C.)*, ed. E. Frézouls (Strasbourg: AECR, 1983), 155.

¹⁰⁵ Nov. 149; App. 7.

In sum, in the context of the objectives of the Tetrarchic reforms, J.-M. Carrié accurately asserts: “Du côté de l’administration civile, la réduction de stature et de prestige des gouverneurs s’est retournée contre le pouvoir central dont l’autorité a été bafouée à travers leur personne.”¹⁰⁶ In other words, the Tetrarchic reforms’ intent on curtailing the power of the governors was actually achieved, but to such a degree that it was excessive and even counterproductive. Furthermore, the division of powers between the military and civil branches in the province also created its share of problems. As Carrié remarks, prior to Justinian’s reforms, the division of powers had become increasingly blurred in the military’s favor.¹⁰⁷ The *dux* progressively gained the upperhand over the governor institutionally. At the beginning of Justinian’s reign, the governor was an institutional liability to the Empire. His status in the larger administrative framework was in many respects negligible. The Tetrarchic reforms caused the governorship to decline substantially. Its ability to tax and its power were severely debilitated. Therefore, it is rather justified to ask whether its continued existence was necessary to the functioning of the imperial administration. If it was, it required a dramatic overhaul either stripping it of many of its so-called duties or enhancing it. The latter would necessarily involve a great deal of innovation to the entire machinery of government. Its place could not be reconditioned without making fundamental changes to other strata of government. Even then, the fabric of the administration was static and even ossified. Creating new officials, moving others around and granting some powers while removing some from others could accomplish little, as the law codes tell us. Even a series

¹⁰⁶ J.-M. Carrié, "Séparation ou cumul? Pouvoir civil et autorité militaire dans les provinces d'Égypte," *AnTard* 6 (1998), 121.

¹⁰⁷ J.-M. Carrié, "Pouvoir civil et autorité militaire dans les provinces d'Égypte," *AnTard* 6 (1998), 105-121.

of reforms equaling or even surpassing the breadth and magnitude of those under the Tetrarchs would surely have the same fate. The general evolution of the imperial administration, despite its ebb and flows, trended downwards.

Just above, it was determined that the governorship had become a hallowed office by the early reign of Justinian. The governor had difficulty completing one of his main duties, which was the administration of justice. The status of the governor within the administrative complex of the Empire suffered tremendously after the reforms of the Tetrarchs. The once supreme authority in the province had become a very weak part of the central administration's intended verticality. The governor's other duty, which the most essential to Constantinople, was in the area of taxation. Fiscality, a strong military and harmony within imperial boundaries were the most pressing issues for the capital.¹⁰⁸ In a previous chapter, it was established that the expansion of the bureaucracy caused a considerable loss of crucial personnel in the municipal councils. *Principales* sought much greener pastures within the expanded imperial administrative machine. Such a move came with many coveted benefits such as tax immunity, enhanced symbolic capital, the acquisition of greater social capital through an expansive network and generally greater economic capital.

Corruption was the subject of discussion above, but it was limited to the governor. In general, it was a common feature in the Roman Empire, as it was in the Republic and so many more polities up to this day. Hence, there is nothing exceptional and unique

¹⁰⁸ J.E. Lenden: "It is best, at the outset, not to overstate the responsibilities and abilities of Roman government. Its aims were limited: the gathering of taxes, the fielding of an army, and the maintenance of civil peace—that is, the prevention of civil war and major riot," (*Empire of Honour: the Art of Government in the Roman World*, 2.) Also, see F. Millar, who underlines the Roman government's lack of pro-active policy and its tendency of being reactive: *The Emperor in the Roman World, 31 BC-AD 337* (Ithaca: Cornell University Press, 1977), 6. Dio, *Hist.* 52.14-40 discusses governmental priorities.

from a broader historical perspective. The degree to which it was commonplace and the nature in which it exhibited itself is of interest. With respect to fiscality, R. MacMullen and B. Palme maintain that taxation grew harsher in the Later Empire and thus the sources provide many more accounts of extortion in the same area. Furthermore, MacMullen estimates that the fiscal administrative machinery increased a hundredfold compared with the High Empire and that this in itself explains the rise in illicit taxation practices.¹⁰⁹ Outside of the justice system, fraudulence could be found in taxation and in real estate, amongst others. For the provinces, these two areas were of prime concern to the central government. The influx of fiscal revenues into the imperial capital was a fundamental concern to the vitality of the Roman Empire itself. This was especially an immediate concern in Justinian's case, whose objectives seem to have been ambitious to the point of being considered rash at the beginning of his reign.¹¹⁰

Venality has been the subject of some discussion above and it was a causative force in administrative corruption. For centuries, it had been a common and longstanding practice in the Roman administration. Late Antiquity is no different apart from the size of government, which in fact exacerbates the issue.¹¹¹ Aspirants to a certain office sought to purchase their appointment for a reason. There was money to be had if the office was won in the bidding process. To compound the issue, the imperial government sanctioned this behavior from which it profited. During the reign of Anastasius, Severus of

¹⁰⁹ For the increase in the fiscal administration: R. MacMullen, "Tax Pressure in the Roman Empire," *Latomus* 46 #1987 (1987), 748-754; B. Palme, "Die Officia der Statthalter in der Spätantike," *AnTard* 7 (1999), 114.

¹¹⁰ Proc., *Wars* 3.10.7-17 is one of the most notable examples. John the Cappadocian vehemently opposes Justinian's decision to launch an expedition to North Africa.

¹¹¹ See above the incident between Cicero and Brutus in the Late Republic. In the Later Empire, see *CTh* 6.22.2; 11.30.6; 12.1.25-27 and *CJ* 12.32.1. Of particular interest is *CJ* 4.3.1, which recognizes the practice of *suffragium* legally. Also, see G. Tate, *Justinien: l'épopée de l'Empire d'Orient*, 527-565, 368.

Antioch laments the venality of church offices and relates it to the common trend in municipal government.¹¹² Interestingly, in his early reign prior to *Novel* 8's release, Justinian maintained and even increased the sale of offices.¹¹³ Venality had its repercussions however. Officials not only received their salaries, but also sought to alleviate and preferably annul their expenditures through fraudulent practices. For one, the judicial system was an area of opportunity, as argued above.

In the case of Salamis mentioned above, Cicero, as Governor of Cilicia, discovered that Brutus had engineered a complex taxation scheme. This occurred in the Republic, but there is ample evidence to be found in the imperial period, including the Late Empire. The episode of Aphrodito mentioned in the previous chapter is a glaring illustration of this. The *μεγαλοπρεπέστατος* Theodosius was able effectively to collect the village's taxes and pocket them for his very self.¹¹⁴ This incident occurred after Justinian's reforms and evidently is beyond our scope. Yet it is revealing in several ways. Theodosius was a man directly connected to the imperial government, as he held the title of *comes*.¹¹⁵ Furthermore, for him to commit such an egregious act in all likelihood he purchased his office. Another clergyman, Maximus of Turin also writes about the issue in one of his sermons. He however includes extortion committed by the military:

Some of the brethren who are in military service or who occupy public office are accustomed to excuse their sins, when they sin gravely, by saying without further ado that they are soldiers. And if sometimes they do not act rightly they complain that they are involved in an evil occupation...For it is not a sin to be in military service, but it is a sin to soldier for the sake of plunder; nor is it a crime to hold public office, but

¹¹² Severus, *Sixth Book* 1.1 p. 11. With respect to the church, he is specifically critiquing the sale of bishoprics.

¹¹³ It must be noted however that its legality is important. If it is legal, therefore it cannot be correctly termed corruption. However, the ramifications are in themselves acts of corruption.

¹¹⁴ See discussion in Chapter 2.

¹¹⁵ *PLRE* 3, Theodosius 5A.

to act toward the common weal in such a way that you increase your private property is understood to be condemned. On this account a certain foresight has provided payments for soldiers lest plunder be taken in a search for recompense.¹¹⁶

This sermon, written approximately at the turn of the fifth century, demonstrates to what extent the common citizens were easy prey to imperial officials of both the military and civil services. Taking into account the judicial system's woes and venality, a common Roman citizen did not have much defense to what appears to be a widespread phenomenon. Although such practices were centuries old, the breadth of extortion in Late Antiquity must have been greater if we were to consider this matter in terms of proportionality. By proportion, I am drawing comparisons between the size of the imperial government before and after the Tetrarchic reforms.

Evidence from the civil service substantiates the reality. Approximately a decade before Maximus of Turin, Symmachus writes with contempt about tax collectors in Italy, whom he accuses of plundering.¹¹⁷ This is further evidence of the justice system's failure, but it is secondary in this case to the abuses committed by the imperial government in the fiscal area. Symmachus critiques a longstanding problem that was targeted in legislation decades earlier. Evidently, the legislation was not terribly effective. The *Codex Theodosianus* highlights such behavior on numerous occasions. Laws tell of officials exacting fees from poorer citizens. Though taxation is proportional to land and capitation, officials were extorting additional fees from those who did not have many means. Valens and Valentinian demanded accountability from their bureaucracies and thus implemented

¹¹⁶ Maximus Taur., *Sermo* 26 (CCSL 23). Here, I use Boniface Ramsey's translation.

¹¹⁷ Symm., *Ep.* 5.63: Piget dicere quibus strophis apparition itali aerarii grassetur. Fertur sub publici debiti specie privatorum nominum falsa recitri. Invalidos quidem statim vincit impression. Validiores autem cum munimenta pro se iuris asciverent, criminosis verborum interpretationibus implicantur, ut ad damni patientiam sese invidiae timore submittant.

stiff penalties to eradicate this corrupt behavior, which evidently was a gross abuse of power. Officials knowingly committed such extortion, for many citizens did not have the capability to seek justice (as mentioned above). Governors were therefore threatened with hefty fines totaling twenty pounds of gold. If a governor were to be caught, his staff was to be fined forty pounds of gold also.¹¹⁸ As it can be deduced from the evidence, there were fundamental glitches in the taxation machine. The situation was constant in itself, but its magnitude seems to have increased over time. Anastasius, who was one of the better managers of fiscal affairs, concluded that there were too many hands in the till. Therefore, he attempted to alleviate the problem by regimenting the collectors.¹¹⁹

Officials in the provinces did not limit themselves to targeting the citizenry. Their boldness was not only limited to the common citizens, but also to another surprising area. Remarkably, the properties belonging to the imperial house were also subject to the machinations of the emperor's administrators. Officials were appointed by the emperor to oversee his lands in such provinces as Cappadocia. In A.D. 396, Theodosius issued laws regarding this very issue. Written to Drepanius, the *comes rerum privatarum*,¹²⁰ the law indicates that the *res dominica* was subject to systematic fraud:

If any stranger lets herds of sheep or of mares into the forest pastures of the *res dominica*, they shall be immediately claimed for the fisc. But if it is discovered that a connivance of a bribable procurator is attempted hereafter, we order the perpetrators to be subjected to severe punishment.¹²¹

¹¹⁸ *CTh* 8.11.1. Other laws in the same vein include 8.11.2-5. In them, there is discussion of rampant abuses of celebrations. Imperial administrators in the provinces used such occasions to levy illicit fees from the provincials. 8.11.2-4 also mention stiff penalties against the officials perpetrating such a crime.

¹¹⁹ *CJ* 10.19.9.

¹²⁰ *PLRE* I, Latinius Pacatus Drepanius.

¹²¹ *CJ* 11.67(66).1. I here provide my own translation.

The rest of the law (*CJ* 11.67 (66)) targets the same illicit practice. Within it, there are a few elements to stress. First, this is further evidence of corruption at the governorship level. In addition, other sources corroborate the fraud committed by officials managing imperial property.¹²² Some procurators, also assigned to manage the properties of the emperor, deliberately sold and/or rented these very lands to other individuals. The situation persisted well beyond the reign of Theodosius I, as there is evidence confirming that this illegal industry thrived to the detriment of the central government. Justinian's provincial reforms of the 530's indicate that the *praedia tamiaca* of Cappadocia were thoroughly exploited. The law states that the lands lost most of their value due to their dilapidated state.¹²³ Although this law is beyond the scope of this analysis, it demonstrates that, up to that point, years of corruption caused the lands to deteriorate in value. In other words, it appears that the situation may have worsened since the fourth century. Interestingly a practice of manipulating property boundaries appears to have been common in certain areas. One reform even alludes to the fact governors might have even been complicit in these illicit activities.¹²⁴ The reason for doing so was once again pecuniary.

The Roman imperial administration prior to Justinian's reforms of the 530's appears to have been in a state of disrepair. Its size was rather considerable for a government of the period. To clarify, with the technology of the Antique period, the difficulty in

¹²² Tacitus, *Ann.* 16.17: "...[Mela] simul adquirendae pecuniae brevius iter credebatur per procuraciones administrandis principis negotiis." Frontinus *De aquis* 9 tells of public officials abusing the aqueduct system. Both Tacitus and Herodian specifically critique procurators (Tacitus, *Agr.* 15.2; Herodian, *Hist.* 7.4).

¹²³ *Nov.* 30.5.

¹²⁴ *Nov.* 30.5; 29.4. For the boundary scandal implicating governors, see the latter.

maintaining a government so large could only prove to be extremely challenging. Effective supervision and oversight could only be minimal; assessments and the collection of data were difficult; the transfer of information slow. From the information we do have, the relationship between the size and effectiveness of the Roman imperial administration is inversely proportional. The larger the government grew the less effective it became at performing its duties.

The justice system was layered and employed a substantial number of individuals while the provincial administrations were no different. The cause of this expansion evidently stems from the reforms initiated by the Tetrarchs. The judicial and civil administrations were subdivided and stratified. That is not to mention the general separation of the civil and military bureaucracies in the province. The reforms intended to tighten the oversight on many levels, particularly in the areas of fiscality and security from internal threats. However, in a strange paradox, the central government sought to exert its control over the administration by expanding it. In other words, the intent to rationalize the bureaucracy further was counter-productive. The reforms exacerbated the symptoms it attempted to treat. It could be argued successfully that the only exceptions were in internal security and the currency's health. Usurpers and rebellions were trimmed to the minimum and the *solidus* in many respects was a stabilizer.

Nevertheless, the Roman Empire always had its share of problems with respect to administrative efficiency. In that respect, it does not differ from other polities, past and present. The numerous mechanisms implemented, which were designed to reinforce and expand vertical authority, in many regards undercut it. The attempt to systematize the judicial system through its expansion and stratification caused a tremendous amount of

problems to Constantinople. For one, the diocese quickly became an inert bureaucratic stratum of the system. What was supposed to be an intermediary between the prefecture and the province was nothing short of an administrative miscalculation. As a result, a significant drain was added to the treasury, which already was a problem in itself. In many respects, it appears that C.N. Parkinson's view of the British colonial bureaucracy, specifically the relationship between the task at hand and the size of staff, may apply here: "Factor I — an official wants to multiply subordinates, not rivals; and Factor II — Officials make work for each other."¹²⁵ This proposition, although anachronistic, is compelling, for this branch of the bureaucracy to have become so quickly a monument to redundancy. Interprovincial policing could have been achieved without the existence of the diocese. Unfortunately, we do not know much about the inception of the reforms. Yet, the end result is telling: the breadth and even more so the existence of the diocese was far from an administrative necessity.

The diocese was only a part of the legal system's woes. Accessibility issues, corruption and redundancy plagued it. For the Roman commoner, accessing the system, especially when the individual was a victim of a crime, was not an attractive proposition. Based on the standard legal costs in fees and other expenses, the drawback was too considerable. That does not include extraneous factors. The system was littered with corruption and that particular reality caused its use to be severely diminished. The common Roman citizen would have already many expenses, but with the addition of mandatory bribes, the whole endeavor was made unfeasible. Bribes to the judge were necessary to initiate litigation in court and the disparity between the two parties' bribes affected the *praeses'* partiality. Corruption also came from without, as notables could

¹²⁵ C.N. Parkinson, "Parkinson's Law," *The Economist*, November 19 1955.

also bribe or outright blackmail the judge. Moreover, aristocrats are known to have purposefully injured the more modest citizen. The repercussions were non-existent if not negligible, due to their ability to manipulate the system's flaws. In sum, to put it bluntly, the system was rigged against the little man.

The provincial administration was also a source of problems for Constantinople. Redundancy and corruption played a significant role with regard to ailments plaguing the provinces. The governor's titlature was a significant weakness in the machinery. It exposed him to the machinations of notables possessing more capital, particularly of the symbolic type. The more the governorship weakened institutionally, the more the notables dictated affairs at the local level. This development created a power vacuum in which power was exerted vertically, but not from the hierarchy's peak. Power seems to have been exerted from the lower tiers of this theoretic power structure. Lower tier does not involve the lower stratum of Roman society. On the contrary, it is a reference to the way in which power was supposed to emanate (from the capital to the periphery). Governors became a weak link in the vertical link from Constantinople to the province. Their ability to apply Roman law was already in question while their ability to ensure effective taxation was no different. The municipal councils were drained of their key members while an increasing amount of notables obtained tax exemptions.¹²⁶ The capital began to seek for alternatives to keep its fiscal health. These developments made the governor unable to control abuses effectively.

With respect to corruption in general, much has been discussed. Venality was one of the causative forces in this area. Contrarily to C. Kelly's argument, it was not a mechanism implemented by the imperial court to maintain its power over the

¹²⁶ A dramatic rise in *illustres* entailed a proportional rise in tax-exempt individuals.

bureaucracy.¹²⁷ The sheer budgetary figures behind such a policy would indicate otherwise. Governors, for example, paid for their appointments and thereafter sought to recoup their financial losses through illicit means. One method was to charge illicit bribes when in court. Other mechanisms could be found in taxation. Governors would create opportunities and even excuses to tax individuals illicitly. Corruption saw no limits and so individuals grew so rash as to contrive ways to defraud imperial properties. Generally, it appears that the duty was not of importance. Being an effective administrator appears to have been one of the lesser concerns. Using the excuse to become an administrator for illicit reasons was the priority. Why else would one pay for an office?

The Roman imperial administration's expansion in the late third and early fourth centuries aggravated the symptoms it attempted to treat. The aristocracy became a tamer fixture of the Empire in appearance. Its members were not conspiring to usurp imperial power or to participate in such an enterprise. They saw the newly revamped and expanded bureaucracy as a new method to achieve a significant amount of capital. The bureaucracy enabled this to occur. The Roman bureaucracy created a system of predetermined results with its systematized procedures. This eventually led to the deterioration of Roman imperial power, which was manifest in its vertical form of authority. C. Kelly is of a very similar opinion, but ultimately thinks that the emperor could change the rules arbitrarily.¹²⁸ At the same time, the bureaucracy's systematization led to its ossification. It was unable to respond to its demands in a successful manner. Attempts to redress such pitfalls appear to have been in vain. Whatever institution was created to exert more central control was absorbed by the problem itself, namely the

¹²⁷ C. Kelly, "Emperors, Government and Bureaucracy," 138-183; C. Kelly, *Ruling the Later Roman Empire*.

¹²⁸ C.N. Parkinson, "Parkinson's Law."

centrifugal forces embodied in the notables. This is illustrative of the break between the central government and the periphery. The imperial court lost much of its vertical authority due to the reasons above.

Lastly, the bureaucracy's inertia in the face of evolving social and political dynamics enabled another stark reality to develop to the point of becoming industries. Zones of uncertainty were impossible to avoid, but the archaic technology further gave license to profiteers. Anything outside the realm of the bureaucracy's systematic procedures and pre-determined results was thoroughly exploited by those who staffed it. For example, the governor, as judge, had no control over the judicial process in itself in theory. He was expected to be impartial in his application of Roman law. However, in reality, he had usurped much power over the entire process. The preliminary phase of litigation was entirely at his mercy. He could refuse to hear a trial if the bribes were unsatisfactory. He determined the winners and losers, but the decision had little to do with Roman jurisprudence in practice. Efforts to curtail this abuse were hopeless. The exploitation of these zones of uncertainty created power structures paralleling the legitimate power of the Roman administration. In sum, the Roman imperial administration's course of evolution appeared to be predetermined. The center appeared to be designed along the lines of the Hellenistic despot, but in reality authority was fleeting, fleeing and transitioning to the periphery.

The negotiation of power between the imperial court and the provincials shifted drastically with the inception of the Dominate. In the relation, what was once heavily tilted in the emperor's favor swung in the opposite direction. By pooling their resources, the relation was reciprocal in the sense that both drew benefits from their respective aims.

The central government was able to administer the empire while the notables were able to ensure lucrative career advancements for themselves, amongst many other considerations. However, before the Dominate, the relation favored the emperor, as he obtained more advantageous terms due to the small size of the bureaucracy. Yet, both always maintained a certain degree of freedom, notably the emperor. The imperial court received obedience from the aristocracy in some respects; rebellions were not frequent as they once were. It also received its income through taxation and a large source of manpower to serve both the civil service and the military. In turn, the notables received a substantial amount of capital. With the Tetrarchs, the expansion of the bureaucracy caused the imperial court to cede unwittingly its commanding authority in the relation. It grew to become much more dependent on the other party, namely the notables, to receive its part of the exchange. In theory, the emperor's office, whose essence was rooted in caesaropapism, could do away with the notables (in effect, erecting a proscription list, as Sulla once did). In theory, the emperor was sublime and omnipotent. Constantius II's parading entry into Rome substantiates this succinctly.¹²⁹ Yet, at what cost could this be achieved? A systematic collapse from within would undoubtedly be the result. The notables had established complex networks, which they used to their own ends, but also to the ends of the imperial

¹²⁹ Ammianus Marcellinus describes Constantius II as somewhat of an infallible being above humanity in his physical demeanor and in his day-to-day dealings: Amm. Marc. 16.10.10. Many other examples describe the lofty status of the emperor. See the tropes comparing Honorius to the Olympian gods: Claudian, *De IV Cos. Hon.* 197-202; 523-526; 537-538; 602-610; for his attributed divinity, see Claudian, *De IV Cos. Hon.* 136-137; 647-648; *De III Cos. Hon. pr.* 15-16; *De VI Cos. Hon.* 131-132; *Pan. Lat.* 12.4.5; Firm. Mat., *Math.* 2.30.6; for comparisons of emperors to stars: *Pan. Lat.* 11.2.3; Amm. Marc. 21.10.2; 22.9.14; Claudian, *De III Cos. Hon.* 131-2; *De IV Cos. Hon.* 170-91; Symm., *Or.* 1.7 (in *MHG, Auct. Ant.* 6.1.320). For modern literature on the subject, see A.D. Nock, "The Emperor's divine comes," *JRS* 37 (1947), 108-109; F. Burdeau, "L'empereur d'après les *Panegyriques Latins*," in *Aspects de l'Empire romain*, ed. F. Burdeau, N. Charbonnel, and M. Humbert (Paris: Presses universitaires de France, 1964), 10-33; J. Béranger, "L'expression de la divinité dans les *Panegyriques Latins*," *MH* 27 (1970), 252-254; B.S. Rodgers, "Divine Insinuation in the *Panegyrici Latini*," *Historia* 35 #69-104 (1986), 69-104.

administration. Then again, such an act, if accomplished, would be in vain. The system itself would only see their replacement with men of perhaps more modest means. The conditions (i.e. the system) would remain unaltered and would only enable replacements to acquire the capital lost by their predecessors. In essence, the relation of power would remain untouched, due to the way in which the imperial administration was established. The tendency to exploit one's freedom remains, as would have been the emperor's dependence on the bureaucracy to administer the Empire. The bureaucracy had become so complex, stratified and systematized that it could only ensure continuity with regard to the relation of power. Only the abolishment or even collapse of what was in place could resolve the plethora of problems created by the Tetrarchic reforms.¹³⁰ For this reason, it is difficult to accept the second half of C. Kelly's position that the emperor maintained absolute power over the bureaucracy and could circumvent it at any point. The emperor's authority in any form, such as the capacity to enact reforms, could only minimally alleviate a problem, but also compound it more often than not.

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¹³⁰ See J. Haldon's discussion of the evolution of government and the elite in "The End of Rome? The Transformation of the Eastern Empire in the Seventh and Eighth Centuries CE."

CHAPTER V: JUSTINIAN'S PROVINCIAL REFORMS

The sixth century can be deemed the transitional phase during which the long evolution of several institutions began to show signs of extreme decay. The cracks in the institutional structures of the empire were increasingly giving away signals that the foundations were prone to make the entire system collapse. In the middle of the A.D. 530s, Justinian sought to quell some of the Empire's institutional woes. In a series of *novellae*, efforts were made to revamp the administration of select provinces drastically. Some provinces were reunited and combined and/or others saw a fusion between civil and military offices, among other reforms. This series of legislation may serve as a template for the reforms that were initiated in the early reign of Justinian. In the following pages, an examination of the emperor's legislation in relation to the imperial administration shall be conducted in the context institutional reform.

From a broader perspective, scholars such as M. Maas argue that Justinian's legislation was used as an ideological apparatus, which further publicized the emperor's designs to be the head of an autocratic regime. He claims that a synthesis between both Christianity and the Roman past produced the new autocratic government under Justinian and that this is exhibited in his legislation.¹ M. Fögen and J. Harries similarly argue that his legislation was intended to demonstrate the unlimited amount of imperial power and legislative competence by subordinating the economy, beliefs, private life knowledge and

¹ M. Maas, "Roman History and Christian Ideology in Justinianic Reform Legislation," *DOP* 40 (1986), 17-31; M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian*; J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*.

faith to the imperial will.² More specific to the topic at hand, C. Roueché also believes that these reforms were purely ideological. The legislation was a blunt reassertion of Roman identity within the debate of the use of the Greek and Roman languages in the imperial administration, which equated to a reassertion of central control.³ Conversely, the legislative reforms themselves are often considered to target imperial institutions, which were in need of attention. A.H.M. Jones and E. Stein argue that the series of reforms in question was intended to resolve a complex judicial problem, which was particularly due to the status of provincial governors and the appeal system.⁴ Then again, J. Haldon asserts that Justinian initiated his reform program with an ideological agenda, but that John the Cappadocian had his own institutional objectives with an intention to increase the bureaucracy's efficiency.⁵

To ascertain the validity of the scholarship above, a thorough analysis of the legal documents will be conducted. This will be supplemented with other primary sources such as those of John Lydus and Procopius. The examination itself will inevitably investigate the state of affairs within the institutional structures of the empire, above all the fiscal and judicial systems. Both, especially the former, were of utmost importance for Constantinople. For the latter, the hierarchy in the judicial system was faltering as many cases were brought to the capital itself. Moreover, the importance of revenue and the method by which to procure it was paramount to each and every emperor, first and

² M.T. Fögen, "Legislation in Byzantium: A Political and a Bureaucratic Technique," in *Law and Society in Byzantium, 9th-12th centuries*, ed. A. Laiou and D. Simon (Washington: Dumbarton Oaks Research Library and Collection, 1994), 53-70; J. Harries, *Law and Empire in Late Antiquity*, 212-215. Also, for imperial ideology as a unifying force between center and periphery, see C. Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire*.

³ C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 83-89.

⁴ E. Stein, *Histoire du Bas-Empire*, 463-464; A.H.M. Jones, *The Later Roman Empire*, 284-602, 493-504.

⁵ J. Haldon, "Economy and Administration," 49.

foremost for Justinian due to his grand and ambitious designs. However, before any of this is achieved, it is important to define the purpose of the language used in the laws pertaining to the reforms. Therefore, an examination of the prose used in the legislation will serve as a foundation to the understanding of the reforms themselves in the first part of this analysis. In the second part, the reforms themselves will be the subject of discussion.

I) RHETORIC IN IMPERIAL LEGISLATION

The monumental legislative compilation, the *Justinian Code*, which was assembled in the early reign of the emperor, has given rise to many contentious interpretations in scholarship to this present day. Notably, when facing the issue of the rhetoric employed within the work itself, there has been a myriad of methods utilized to understand the nucleus of the legislation. Laws, particularly in the *proimias*, are draped in a thick cloak of imperial vocabulary that is the source of the diverging interpretations. Yet, in this segment, the analysis shall be limited to the recurring theme of *ἀνανέωσις*, which may be translated into English in several ways: renewal, revival or restoration. The theme itself is used in many contexts and thus requires an across the board inquiry, which will indeed effectively reveal any possible patterns, if present. The objective of this section is to uncover how does administrative reform relate to classicism in the context of the *Justinian Code*.

Herein, the reforms will be limited to institutional ones, particularly fiscal, administrative and judicial. Classicism is a slippery term to define. I shall elaborate on the definition in Section II. Briefly, the definition employed herein is closer to the more

current one, namely the adherence to ancient standards set in artistic and literary culture. In the field of Late Antique history, it can be associated to a tension between classical culture and Christianity. However, the interpretation of the theme here is far removed from the Hegelian rubric.

As it has just been mentioned above, there is a wide array of interpretations of imperial rhetoric, which has molded and shaped the landscape of scholarship. There are two chief methods employed to examine the legislation; ideological and literary. F. Dvornik examines the imperial law as two separate realities at odds, which are diametrically opposed, Roman and, Oriental and Hellenistic. The former reflects more of a Republican ideal, which involves a bureaucratized system that includes: esteem for the law and the enactments of the predecessors, and judicial constancy. The two latter embody the stereotypical view imposed by Western civilizations of the time upon eastern kingdoms, that is, a highly centralized system led by a despot, who himself is law incarnate, and with his lofty status, was deemed deified. The climax of this tension culminated under the reign of Justinian when Hellenism prevails and results in a rhetoric that Dvornik deems to be “Hellenistic ideology in Christian garb.”⁶ Then again, in the context of the reforms, S. Puliatti claims:

Esse dipendono bensì, e in misura non meno rilevante, anche dall'intervento di un ideologo, come era appunto Giustiniano, il quale, a livello diverso rispetto a quello pragmatico di Giovanni, ma con pari consapevolezza, avvertiva l'urgenza della soluzione dei problemi dello Stato.⁷

⁶ F. Dvornik, *Early Christian and Byzantine Political Philosophy: Origins and Background*, 716-722, esp. 720.

⁷ S. Puliatti, *Ricerche sulla legislazione regionale di Giustiniano: lo statuto civile e l'ordinamento militare della prefettura africana* (Milan: A. Giuffrè, 1980), 5.

More recently several scholars have utilized this same method. Many have been mentioned above in the general context of the reforms. Here, I shall narrow the focus to their understanding of the prose in the laws. M. Maas asserts that there was a tension between Christianity and *romanitas*: “As a result, the figure of the emperor as legislator realized a potential for the reconciliation of independent Christian and Roman expressions of authority,”⁸ and thus asserts that “for the synthesis to be successful”⁹ Justinian was required to justify his legislation through the appeal to Roman power of a pagan past but develop a new theory of imperial power rooted in the Christian God.¹⁰ Even more recently, J. Harries argued that there was tension between the legal and imperial cultures, but she added one interesting element: “[the emperors’] main interest was the public assertion of their power, through the language of their legislation.”¹¹ Using a multi-method approach, C. Ando suggests “that provincials internalized imperial ideology during the long periods of tranquility that characterized the first and second centuries A.D. and, therefore, that the empire survived its crises because of what had been achieved in times of peace.”¹²

⁸ M. Maas, "Roman History and Christian Ideology in Justinianic Reform Legislation," 29. Also, for a broader context, see A. Cameron, *Christianity and the Rhetoric of Empire: the Development of Christian Discourse* (Berkeley: University of California Press, 1991). Particularly Chapter Four “The Power over the Past” argues for the Christian appropriation of Classical discourse. This follows her earlier work: "New and Old in Christian Literature," in *Major papers of the 17th International Byzantine Congress* (New Rochelle: A.D. Caratzas, 1986), 45-58.

⁹ M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian*, 39.

¹⁰ M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian*, 39.

¹¹ J. Harries, *Law and Empire in Late Antiquity*, 212. J. Harries, *Law and Empire in Late Antiquity* (New York: Cambridge, 1999), 212; M.T. Fögen earlier proposed a very similar interpretation in "Legislation in Byzantium: A Political and a Bureaucratic Technique," 53-70.

¹² C. Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire*, 12. From a broader standpoint, D. Slootjes sees the rhetoric used in the communication between governors and their provincial subjects as representative of reality. She does not judge the rhetoric as a superficial

On the other hand, there are scholars who utilize a classicist (literary) approach in order to decipher the rhetoric in legislation. M. Kruse has examined the laws in context and argues that the language therein expresses a true attempt to restore. He draws parallels to other contemporary authors and points out the trending tropes involved.¹³ H. Hunger conducted one of the most prominent works of this style. In his work, the *Prooimion*, Hunger analyzed imperial legislation and argued that the mere fact that there is meaning does not indicate that there is a rational expression of an Idea, for it depends upon which socio-political context the cliché is employed. Also, with respect to ecclesiastical affairs, D. Olster and M. Kahlos have employed the same method more recently and have further demonstrated the validity of Hunger's argument.¹⁴

Above, the definition of Classicism was briefly addressed. This particular concept now requires full attention. The interpretation that follows diverges from the tension-based rubric and is centered upon human behavior. As a result, the term Classicism used here is closer to the more common definition: the adherence to ancient standards set in artistic and literary culture. This however comes with a stipulation. With regard to

expression of ulterior motives: *The Governor and his Subjects in the Later Roman Empire* (Boston: Brill, 2006).

¹³ M. Kruse, "A Justinianic Debate across Genres on the State of the Roman Republic," in *Shifting Genres in Late Antiquity*, ed. G. Greatrex, H. Elton, and L. McMahon (Burlington: Ashgate, 2015), 233-245.

¹⁴ H. Hunger, *Prooimion: Elemente der byzantinischen Kaiseridee in den Arengen der Urkunden*. Also see, H. Hunger, "On the Imitation (ΜΙΜΗΣΙΣ) of Antiquity," *DOP* 23 (1969-1970), 15-38. In the article, Hunger argues that the quality of a writer is found in his choice of arranging the tropes in a fitting manner. Therefore, it is necessary the options available in order to understand the meaning. Even if the literal meaning of a word stays the same, its rhetorical setting can shift its meaning. D. Olster uses the same method: "Justinian, Imperial rhetoric, and the Church," 165-176; M. Kahlos, "Ditches of Destruction – Cyril of Alexandria and the Rhetoric of Public Security," 659-690. Rhetorical training can be noted well into the Middle Period of Byzantine History. For a discussion, see: I. Nilsson, "Narrating Images in Byzantine Literature: the Ekphraseis of Konstantinos Manasses," *Jahrbuch der Österreichischen Byzantinistik* 55 (2005), 121-146; P. Marciniak and K. Warcaba, "Racing with Rhetoric: a Byzantine Ekphrasis of a Chariot Race," *BZ* 107 #1 (2014), 97-112.

hermeneutics, this definition affixes a superficial meaning of the term and it is in many respects teleological. In other words, it does not provide a system of causation. Therefore it is important to refine the definition by addressing this very lacuna.

The immediate problem, which stems from the void, centers on the reason for the structure's existence. The answer to this problem lies in a human desire, that is, *mimesis*. Contrarily to a dialectic in which the tension between Christianity and Classical culture expresses itself in Classicism, the following definition also contains three elements, but does not base itself on a linear equation. On the contrary, it is rooted in the interaction of three elements: the author's desire, the model and the object. In this case, the model consists of an author, often long deceased, whose symbolic capital in literary culture is often beyond measure. With respect to the object, Late Antique authors sought the recognition, acclaim and reputation of their predecessors. Therefore, literary culture, in many ways, remained stagnant.¹⁵ If the model and the object were of prime interest to the Late Antique author, any deviation (i.e. innovation) could only be met with resistance. Moreover, any such act would also by extension hinder any hopes of legitimacy and repute from the ambitious author. As a result of this structure, a bank of literary and rhetorical clichés, which were the trademark of a good author in the period, developed. In other words, authors would appropriate lines (verbatim) and tropes from a large collection.

¹⁵ Here I am paying particular attention to historical narratives and panegyrics amongst others. *Mimesis* in the domain of literature is not restricted to the aforementioned genres. The emergence of the hagiography genre is another discussion in itself, but is in many respects a derivative of the classical biography. See *The Limits of Ancient Biography*, ed. B.C. McGing and J. Mossman (Oakville: David Brown Book Co., 2006), 657; J. Elsner, "Beyond Compare: Pagan Saint and Christian God in Late Antiquity," *Critical Inquiry* 35 #3 (2009). For the ancient origins of the Christian Chronicle, see R.W. Burgess and M. Kulikowski, *Mosaics of Time: the Latin Chronicle Traditions from the First Century BC to the Sixth Century AD*, vol. 1 (Turnhout: Brepols, 2013).

The lack of a system of causation might be found in one notable author. Procopius and his work, the *Wars*, provide a good illustration. Much scholarship has been produced on the topic. The native of Caesarea emulated the likes of Thucydides and Xenophon amongst others.¹⁶ However, the relationship between Thucydides and his masterpiece, *History of the Peloponnesian War*, is of utmost interest. Procopius not only sought to emulate Thucydides' work. The former sought the feeling of satisfaction felt in the latter; that is not to mention the Athenian's lasting legacy. In other words, Procopius was in pursuit of the recognition and legitimacy that Thucydides reaped from his work. This concern was more focused on his contemporaries and probably less so on his very own legacy. Therefore, events such as the plague under Justinian, for example, must be regarded with skepticism. That is not to say that it never occurred, but the model inherently molded Procopius' description of the event itself.

The plague the *Wars* is subject to debate, specifically with respect to its virulence.¹⁷ Indeed, science has validated the existence of the plague, but the scholarly

¹⁶ See A. Cameron, *Procopius and the Sixth Century* (London: Duckworth, 1985), 37-43; G. Greatrex, "Stephanus, the Father of Procopius of Caesarea?," *Medieval Prosopography* 17 #1 (1996), 125-145; C. Pazdernik, "Procopius and Thucydides on the Labors of War: Belisarius and Brasidas in the Field," *Transactions of the American Philological Association* 130 (2000), 149-187; A. Kaldellis, *Procopius of Caesarea: Tyranny, History, and Philosophy at the End of Antiquity* (Philadelphia: University of Pennsylvania Press, 2004), 24-38, 246-265; C. Pazdernik, "Xenophon's Hellenica in Procopius' Wars: Pharnabazus and Belisarius," *GRBS* 46 (2006), 175-206. For Procopius' references to Xenophon in *Buildings*: K. Gantar, "Prokops 'Schaustellung der Tapferkeit'," *Ziva Antika* 11 (1962), 283-286.

¹⁷ Many scholars argue for the plague's disastrous effects on imperial institutions. E. Stein deems the plague as being most terrible. However, he does remark that the recovery was very rapid: *Histoire du Bas-Empire*, 758-765. J.-N. Biraben's work on the Black Death attests to a loss of a third of Europe's population: *Les hommes et la peste en France et dans les Pays Européens et Méditerranéens*, 2 vols. (Paris: Mouton, 1975-1976), 25-48. He also believes that the plague occurring in the sixth century was cataclysmic: "RAPPORT: La Peste du VI^e Siècle dans l'Empire Byzantin," in *Hommes et Richesses dans l'Empire Byzantine*, ed. V. Kravari, J. Lefort, and C. Morrisson (Paris: Lethielleux, 1989), 121-125. P. Allen's conclusions are just as extreme: "The 'Justinianic' Plague," *Byzantion* 49 (1979), 5-20. Averil Cameron claims that it contributed to the empire's weakness: *The Mediterranean World in Late Antiquity, A.D. 395-600*, 85. Michael

consensus portrays the event as catastrophic.¹⁸ However, when comparing and contrasting the narratives of both Thucydides and Procopius there are structural similarities that are not coincidental.¹⁹ On the one hand, the outline of Thucydides' account is roughly structured around six themes: the geographic origin of the plague, its spread, a vivid description of its symptoms and effects, the resulting compassion, human vices emerging due to the plague, and finally how the virus spread from the point of interest (Athens in the case of Thucydides). In the same order of appearance, Procopius constructed his own account in the *Wars*. Even some details are eerily similar. For example, both authors mention Egypt as an important spawning ground for the virus.²⁰

McCormick is of the same opinion: *The Origins of the European Economy: Communications and Commerce, A.D. 300-900* (New York: Cambridge University Press, 2001), 21, 35, 39-40.

J.H.W.G. Liebeschuetz argues that 540 was a turning point: *The Decline and Fall of the Roman City*, 409-411. Also see C.c. Morrisson and J.-P. Sordini, "The Sixth-Century Economy," in *The Economic History of Byzantium*, ed. A.E. Laiou (Washington: Dumbarton Oaks Research Library and Collection, 2002), 193-195, 220; C. Zuckerman, *Du village à l'empire: autour du registre fiscal d'Aphroditô (525/526)*, Centre de recherche d'histoire et civilisation de Byzance (Paris: Association des amis du centre d'histoire et civilisation de Byzance, 2004), 207-212; A.E. Laiou and C.c. Morrisson, *The Byzantine Economy* (New York: Cambridge University Press, 2007), 24, 38.

On the other hand, few scholars believe that the plague was overstated. A.H.M. Jones is very cautious in stating its magnitude: *The Later Roman Empire, 284-602*, 288, 1043-1045. G. Tate argues that the crisis of the sixth century in Northern Syria was not due to the plague not the re-opening of hostilities with the Persians. Though, he does concede that there were negative effects, but they were not catastrophic. He proposes that the overpopulation of the region exceeded the number of resources available to it: "Les Campagnes de la Syrie du Nord à l'Époque Proto-Byzantine," in *Hommes et Richesses dans l'Empire Byzantine*, ed. V. Kravari, J. Lefort, and C.c. Morrisson (Paris: Lethielleux, 1989), 75-77; *Les campagnes de la Syrie du Nord du II^e au VII^e siècle*, 335-342. J. Durliat argues that the sources' dark descriptions are hyperboles reflecting the work of Thucydides. Moreover, in the *Anecdota*, Procopius does not label the plague as a divine wrath incurred on the Romans and this would have conveniently fit his agenda. His analysis of papyrological, epigraphic, legislative, archaeological sources indicate that there was barely any room attributed to its catastrophic destructiveness: "La Peste du VI^e Siècle: Pour un Nouvel Examen des Sources Byzantines," 107-119.

¹⁸ I. Wiechmann and G. Grupe found *Yersinia pestis* in a burial site in Aschheim, Bavaria: "Detection of *Yersinia pestis* DNA in Two Early Medieval Skeletal Finds From Aschheim (Upper Bavaria, 6th Century A.D.)," *American Journal of Physical Anthropology* 126 #1 (2005), 48-55.

¹⁹ Thucyd., *Hist.* 2.47-55; Proc., *Wars* 2.22-23.

²⁰ Thucyd., *Hist.* 2.48.1-2 (ἤρξατο δὲ τὸ μὲν πρῶτον, ὡς λέγεται, ἐξ Αἰθιοπίας τῆς ὑπὲρ Αἰγύπτου, ἔπειτα δὲ καὶ ἐς Αἴγυπτον καὶ Λιβύην κατέβη καὶ ἐς τὴν βασιλεύς γῆν τὴν πολλήν.); Proc., *Wars*

The similarity between the outlines of both accounts is not accidental. It appears that Procopius used Thucydides account and even expanded its length to describe the event of his time. Hence, it is less a matter of doubting the existence of the plague. On the contrary, it is more a question of questioning the magnitude of the plague in the sixth century. Thucydides' timeless literary description was used as a model to depict a somewhat similar occurrence. In all likelihood, the virus was destructive, but not to the extent Procopius' narrative.²¹ If an analogy were used to explain this literary style, a panegyric is a distant genre yet similar in one respect. In order to describe one person, event or thing, someone or something of great repute is used to expound it.²² It must be noted that the panegyric's objective is evidently far different but the rhetoric is similar. Though the rhetorical device in itself is ancillary to the mimetic nature of the phenomenon.

It is of no coincidence that there is no evidence in the neighboring empire of the Sassanid Persians, which was roughly as large and as populated.²³ Moreover, the Persians

2.22.6 (Ἦρξατο μὲν ἐξ Αἰγυπτίων οἱ ὥκηνται ἐν Πηλουσίῳ. γενομένη δὲ δίχα πῇ μὲν ἐπὶ τε Ἀλεξανδρείᾳ καὶ τῆς ἄλλης Αἰγύπτου ἐχώρησε, πῇ δὲ ἐπὶ Παλαιστίνους τοὺς Αἰγυπτίους ὁμόρους ἦλθεν, ἐντεῦθεν τε κατέλαβε τὴν γῆν σύμπασαν, ὁδῷ τε αἰεὶ προϊοῦσα καὶ χρόνοις βαδίζουσα τοῖς καθήκουσιν.). The plague is now thought to originate in the Far East. See W.J.R. Simpson, *A Treatise on Plague Dealing with the Historical, Epidemiological, Clinical, Therapeutic and Preventive Aspects of the Disease* (Cambridge: University press, 1905), 6.

²¹ For other literary sources, see: Proc., *Anecd.* 4.1; 18.44; 23.19; Marc. Comes, *Chron. s.a.* 543; Evagrius Schol., *Hist. Eccl.* 4.29; V. Théod. *De Sykéon* §8, p.7; *The Life of Saint Nicholas of Sion* §52, p.82; *Mirac. Dem.* 1.3, 13; *La vie ancienne de S. Syméon Stylite le jeune* §69, pp.59-60; *V. de Syméon le fou* §18; John Moschus, *Pratum Spirituale* §131; Victor Tonnennensis, *Chron.* A.542; Corippus, *Iohannis* 3.343-360; John of Ephesus, *Ecclesiastical History in Chronique de Michel le Syrien*, t. 2, pp.236-238; *Le Liber pontificalis*, t. 1, pp. 291, 308-309; Greg. of Tours, *Hist.* p.477.

²² For example, see the discussion on the theory of imperial power in Chapter 3. Claudian's panegyrics involved the use of divinity to describe Honorius.

²³ Apart from Procopius who claims the Persians suffered the same fate, there are not many sources corroborating his claim. Under Emperor Maurice, in A.D. 598, a Turkish embassy arrived in Constantinople. Theophylact writes that the Turks never suffered from the plague: δυοὶ δὲ μεγίστοις τισὶ τὰ Τούρκων ἔθνη μεγαλαυχεῖ φασι γὰρ ἄνωθεν αὐτοὺς καὶ ἐξ ἄρχῃς μηδέποτε

would have had to encounter its virulence prior to its arrival in the Roman Empire, if we were to follow the ancient trade routes moving from East to West. Trade is one of the most important mechanisms that enable the spread of an epidemic.²⁴ This particular event is an excellent illustration of literary classicism in Late Antiquity. Others include letters written by Sidonius Apollinaris and Ruricius of Limoges, both of whose prose is dotted with references to classical works. Sometimes the presence of these inclusions appears to be only for the sake of showcasing symbolic capital.²⁵ Above all, the pronounced usages of previous authors' words and ideas are undoubtedly related to the human mimetic desire. Not only did it make one's symbolic capital conspicuous, more importantly it also

λοιμῶν ἐπιδημίαν θεάσασθαι, τῶν τε σεισμῶν σπάνιν εἶναι κατ' ἐκείνην τὴν χώραν (*Hist.* 7.8.13). An earlier passage of his (*Hist.* 5.10.15) is rather ambiguous in its mention of the Turkish race (ἐκ τοῦ ἔθνους τῶν Τούρκων) suffering from a plague. Interestingly, the Turks were in contact with the Persians and the Romans in the sixth century prior to this embassy: Menander frg. 13.5; Theoph. Byz. 3 (*FHG* 4.270-271); John of Ephesus, *Ecclesiastical History* 6.23; John of Epiphania 2 (*FHG* 4.273-274); *The History of Vaxt'ang Gorgasali* 217-218/229. Trade from the Far East through the Turks was not uncommon. Hence, if the plague originated in the Far East and was as cataclysmic as often proposed, there would be much more to be told in the sources.

²⁴ For skepticism involving the spread to Persia, see for example, I. Shahîd's critique of L. Conrad, whose translation of Hassan is riddled with errors: *Byzantium and the Arabs in the Sixth Century* (Washington: Dumbarton Oaks Research Library and Collection, 1995), 291 ff. The translation is shaped by predetermined preconceptions of the plague: L.I. Conrad, "The Plague in the Early Medieval Near East" (Thesis (Ph D), Princeton, 1981). For the Persian sources that remain, there is silence. For example, the *Chronicle of Arbela* makes no mention of the plague despite the chronology and geography. For the *Chronicle's* authenticity, see S. Brock, "Syriac Historical Writing. A Survey of the Main Sources," *Journal of the Iraqi Academy Syriac Corporation* 5 (1979), 1-30; O.J. Schrier, "Syriac Evidence for the Roman-Persian War of 421-422," *GRBS* 33 (1992), 75-86; R. Burgess, *Studies in Eusebian and Post-Eusebian Chronography* (Stuttgart: Franz Steiner, 1999), 255.

²⁵ With respect to Sidonius, F.E. Romer asserts: "Literary evidence of the living conditions in Italy at this time is scattered and fragmentary. Even when there is personal correspondence to fall back on, as in the cases of Symmachus (ca. A.D. 340-402) and Sidonius Apollinaris (ca. A.D. 430-post 479), the concerns and literary classicism of the privileged classes are more clearly revealed than the problems of daily life," (see "Famine, Pestilence and Brigandage in Italy in the Fifth Century A.D.," in *A Roman Villa and a Late Roman Infant Cemetery: Excavation at Poggio Gramignano, Lugnano in Teverina*, ed. D. Soren and N. Soren (Rome: L'Erma di Bretschneider, 1999), 466. For an analysis of Symmachus and Sidonius, see W.E. Heitland, *Agricola* (Cambridge: Cambridge University press, 1921), 402-408, 426-431.

served to validate its user amongst his peers, namely the elite. Such instances serve as very fitting examples to begin the analysis.

With the Tetrarchic reforms, a vast overhauling of the empire's administrative map was accomplished. As it has been argued above, Justinian's provincial reforms were not an expression of imperial ideology. On the contrary, the rhetoric, which adorns the *novellae*, is just simply rhetoric. Yet this rhetoric has much less to do with the great orators of the past than with human behavior, as it has just been proposed above. Rhetoric remained a variable in a linguistic formula that could be adapted to different social, political and economic contexts, within which different meanings could be attributed to clichés. Within these formulae, the attention should not be diverted from the most important variable; specifically, the variable is an expression of the reforms. If the second variable, i.e. the rhetoric, is granted an excess of scrutiny the underlying objective of the law can be overlooked. The rhetoric was an expression of human behavior centered on the triangular relationship between the author, the model and the object. In this instance, the authors pursued what stemmed from the model's relationship with the object, namely credibility, accomplishment and validation.

Therefore, the laws are not an expression of a synthesis between Christianity and the Roman past. On the contrary, the laws are a clear illustration of an enduring structure in Roman society, classicism. For example, the author of the laws, Tribonian, was deemed to be one of the better, if not the best, products of the educational system, *paideia*, in his day. In that regard, it is no coincidence that he had a marked ability to draw upon ancient knowledge in the composition of the laws.²⁶ His reputation could only be derived

²⁶ Proc., *Wars* 1.24.16: Τριβουνιανὸς δὲ φύσεως μὲν δυνάμει ἐχρῆτο καὶ παιδείας ἐς ἄκρον ἀφίκετο τῶν κατ' αὐτὸν οὐδενὸς ἥσσαν...

from his works. Thus, this is a fitting illustration of the definition provided above. His familiarity with the bank of classic literary works was a reflection of his erudition and this inevitably affected his reputation positively. Nevertheless, the aesthetics of the laws were but a testament to his abilities in that area.

Rhetoric in law was considerably important to Justinian's administration. His reign is known for its lavish expenditures due to which he squandered the enormous treasury, which was left by his uncle's predecessor, Anastasius. The imperial government's expenditures vastly outweighed its revenues during this period, as we must note the numerous occasions upon which there was a clear struggle to ensure that the ship of state remain afloat. For example, this may be understood on numerous occasions when Justinian employed a general military strategy of triage with regard to his frontiers to the especial detriment of the Balkans. The expedition in Italy was protracted also due to the inabilities of the imperial government to sustain a sufficient expeditionary force on the peninsula. Therefore, there was a paramount necessity for fiscal reform in order to quell the wildfires caused by Justinian's ambitious projects, whether they might be architectural or martial in nature and this was understood to be inevitable early in his reign.

Thus, the imperial court's drive to bridge the gap between expenses and revenue were of utmost concern. Therefore in many instances in the *Codex Iustinianus*, one might find exhortations similar to these:

...the public tribute should be paid for these purposes without diminution, freely, and at the legally fixed times. Hence, if you zealously respond to the magistrates, they can easily and expeditiously pay the tribute to us; we

Although it must be stated that Procopius then immediately proceeded to berate Tribonian for his alleged corrupt pursuit of material wealth. John Lydus is of the same opinion as Procopius (John Lydus, *De Mag.* 3.20.10-11).

can thus praise the magistrates for their diligence and commend you for your voluntary action, and there will be entire and concordant harmony between those that govern and the governed.²⁷

This passage can be found in the pivotal reform, *Novel* 8, which laid the foundations for several others. It drastically revamped the provincial administrations in certain regions and in many ways. It serves as a clear indication of the empire's struggles to maintain a fine balance between its expenses and its revenues, with the former significantly outweighing the latter. Also, it underlines the imperial imperative to collect taxes in a more efficient way and at a greater rate that also comprises the creation of new taxes for which John the Cappadocian was notorious. Therefore, under these circumstances, the proconsul:

...must deal honestly with our subjects, as we have often stated. This is our most earnest desire, and because of it we have disregarded the large amount of money and the expenditures in great wars, in which God permitted us to bring the Persians to terms of peace, to subjugate the Vandals, the Alans, and the Moors and to recover all of Africa as well as Sicily, so as to give us hope to retain the government of the other countries between the confines of the two oceans, subject to the ancient Romans, but thereafter lost by sloth. We shall, with the aid of God, make a change in that respect, for we do not seek to avoid even the gravest difficulties, but submit to sleeplessness, hunger and hard labor for the benefit of our subjects.²⁸

The stress in this passage is placed upon the necessity for citizens to bear the brunt of the

²⁷ *Nov.* 8.10 (Blume's translation, *passim*): ...pro quibus competens est fiscalia tributa sine imminutione et devote et secundum definita exigi tempora. Quapropter si vos quidem devote occurretis iudicibus, illi vero facilem et praeparatam fiscalium illationem in nos exhibuerint, et iudicum laudabimus studium et vestram approbabimus voluntatem, et undique una quaedam erit optima et consona praesidentium et quibus praesident congruentia (Mommsen's edition, *passim*).

²⁸ *Nov.* 30.11: Et pure nostris subiectis (hoc quod saepe diximus) utetur, causam festinatam nobis et pecunias neglegere procurantem magnas, utique in tantis expensis et in bellis maximis, per quae dedit nobis deus et apud Persas agere pacem Uandalosque et Alanos et Maurusios religare et Africam universam insuper et Siciliam possidere, et spes habere bonas quis etiam reliquorum nobis detentionem annuet deus, quam prisci Romani usque ad utriusque oceani fines tenentes sequentibus neglegentiis amiserunt; quas nos divino solacio confidentes in melius convertere festinamus, nihilque nos pigebit horum quae ad novissimam difficultatem tendunt, vigiliis et aliis universis laboribus pro nostris subiectis semper uti.

weighty needs of the imperial administration and to comply with the new systems of imperial exactions implemented by John the Cappadocian. The fiscal reforms, which were initiated by the great Praetorian Prefect, intended to bridge the gap between both the expenditures and the revenues destined for the imperial treasury. The discontent that arose due to John's initiatives is well known, as any government's increasing vigilance with respect to taxation is seldom met with enthusiasm.²⁹

As it has just been mentioned above, Justinian and his Praetorian Prefect, John the Cappadocian, initiated a series of provincial reforms and *Novel* 8 was its foundation.³⁰ Other provinces also received attention by John the Cappadocian who appears to have had a resolute program to make cuts where it was feasible (in terms of financial, political and military security).³¹ This reform program did not only concern Asia Minor and the Aegean basin, but also extended itself beyond the East. In the West, after the lands of North Africa were recovered, the new administration that was implemented did not reflect the general trend of the period, that is, a large and intricate bureaucracy, on the contrary as E. Stein declares: "...sa structure était d'une simplicité remarquable..."³² Thus, it must be noted that there was a clear intent on attempting to establish more cost-effective provincial administrations in order once again to bridge the gulf between imperial expenses and revenue. All of these reforms do reflect one single event in the early reign of Justinian, when, during the debates, which took place on the eve of the

²⁹ For example, see Lydus, *De Mag.* 3.69; Proc. *Anecd.* 23.4.

³⁰ *Nov.* 8; 24-31; for a thorough analysis of *Nov.* 8, see R. Bonini, *Ricerche sulla legislazione giustiniana dell'anno 535: Nov. Iustiniani 8 Venalità delle cariche e riforme dell'amministrazione periferica* (Bologna: Pàtron, 1980).

³¹ See J.-M. Carrié, "Séparation ou cumul? Pouvoir civil et autorité militaire dans les provinces d'Égypte," 116.

³² E. Stein, *Histoire du Bas-Empire*, 463. Also see A.H.M. Jones, *The Later Roman Empire, 284-602*, 590. For the establishment of the new administration: *CJ* 27.

North African campaign, John ascertained the liabilities bound to such a bold enterprise.³³ John's financial aptitude was unquestionable during the period and served his emperor dutifully, but with trepidation due to the latter's grandiose ambitions, and he highlighted many financial difficulties that could possibly arise. Evidently, his concerns would soon materialize as the Roman expeditions to North Africa and Italy were initially successful, but the resources required to sustain these military efforts both in the expansion and in the consolidation of the new territories were scarce and this ultimately led to a series of blunders, such as the mutiny in North Africa.³⁴

Returning to *Novel* 8 and the subsequent legislation stemming from it, it is now important to determine the extent of the reforms themselves. Several key issues were addressed among others: the military and civil branches of the provincial administration were fused, the governor's office was promoted in status and assumed more judicial and military power, the venality of the governorship was outlawed and provinces were consolidated and the provincial bureaucracies were downsized.³⁵ Thus, as it has just been noted above, there was an unmistakable agenda of reducing both expenses and personnel where possible and, when this is taken into perspective along with the fiscal reforms, also highlighted above, these are rather apparent signs of the difficult circumstances, which John the Cappadocian was required to address. The ramifications of these reforms were evidently unpopular, for the path, which John the Cappadocian pursued, would easily incur the malevolence of not only the commoners due to the fiscal reforms in term of ampler exactions, but also the bureaucrats. The latter evidently fell victim to the circumstances in which the empire of the period found itself, as John sought to reduce

³³ Proc., *Wars* 3.10.7-20.

³⁴ Proc., *Wars* 4.28.

³⁵ Nov. 8; 24-30.

expenditures and maximize income where it was possible and this obviously entailed the reduction in provincial personnel in these reforms. When he sought to make the bureaucracy leaner, he inevitably challenged the underpinnings of multiple social networks. Not only would some officials lose out as a result, others would also see their patronage networks undermined, and by extension and more importantly their social capital impacted. Hence, the Praetorian Prefect in question was playing a very dangerous game in which popular upheaval and political conspiracies could abound.³⁶

During the reign of Justinian, there were many issues, other than fiscal and administrative, which drew much of the emperor's attention and one of the few prime concerns lied in the judicial system whose fissures seemed too visible to ignore. Hence, with regard to this institution, the emperor addressed a multitude of different issues in his legislation, as legislation was issued in a multitude. As mentioned in Chapter 3, the appeals system was in dire need of reform, for it reached a point of crisis, in which the lower institutional levels were often bypassed, and thus the imperial government sought to quell this problem.³⁷ Once again, there is a benchmark set in legislation that is directly related to the very same series of provincial reforms, and the latter have already been

³⁶ For example, the Nika Riots posed an existential challenge to Justinian's reign. John the Cappadocian was deposed in response to the rioters demands. For analyses of the Riot, see J.B. Bury, "The Nika Riot," *The Journal of Hellenic Studies* 17 (1897), 92-119; A. Cameron, *Circus Factions* (New York: Oxford Clarendon Press, 1976), 278-281; A.A. Chekalova, "Narod i senatorskaja oppozitsija v vosstanii Nika," *Vizantiskij Vremennik* 32 (1971), 24-39; A.A. Chekalova, *Konstantinopol' v VI veke: vosstanie Nika* (Moscow: Izd-vo "Nauka," Glav. red. vostochnoi lit-ry, 1986); C. Gizewski, *Zur Normativität und Struktur der Verfassungsverhältnisse in der späteren römischen Kaiserzeit* (Munich: C.H. Beck, 1988); G. Greatrex, "The Nika Riot: A Reappraisal," *The Journal of Hellenic Studies* 117 (1997), 60-86.

³⁷ See J. Gasco, "Les pétitions privées," 93-103.

discussed formerly.³⁸ However, on this occasion, the legislation takes root in *Novel* 23, where the institutional problems with the appeals system are underlined and addressed:

Our highest judges are occupied with the most unimportant cases, and litigants are, in such cases, burdened with large expenses, to exceed, perchance, the total amount involved in the action.³⁹

What may be remarked from this particular law is the institutional decline of the appeals system. This perturbed the high officials as much as the commoners, who desired to utilize it. The fees involved in these court cases often eclipsed the property's value at stake and this evidently brought about some considerable repercussions. This either impoverished the litigant or permitted the more influential defendant to evade prosecution. This could not only permit him to escape the law, due to the plaintiffs inability to cause the case to materialize, but could also promote further abuses from the influential elements of society. As a result, the legislation targeted the decline of the intermediaries in the legislation in order to restore them.⁴⁰

Still within the confines of this discussion, that is, judicial efficiency, Justinian underlined a problem in the mechanism by which summons were made. Litigants were flocking to the capital and consequently "abandoning their provinces and coming [to Constantinople] to ruin themselves and die, after having been deprived of their property,

³⁸ These are the provincial reforms in Asia Minor: *Nov.* 24-31.

³⁹ *Nov.* 23.3: ...super minimis causis maximi nostri iudices inquietentur et homines propter minimas causas magnis fatigentur dispendiis, ut forsitan totius litis aestimatio ad sumptus iudiciales non sufficeret.

⁴⁰ For a more complete discussion on the pitfalls of the justice system, see Chapter 3. *Nov.* 23.3-4; also see, *Nov.* 8; 24-31 in which there is a repeated insistence upon the revitalization of the province as an essential layer in the appeal system. Roofs were also established in order to minimize the number of judicial cases being taken beyond the province. At first the sum of 500 solidi was established (*Nov.* XXIII-XXXI), but this was thereupon augmented to 720 solidi (*Nov.* 103); also for the declining role of the governor as an intermediary see C. Roueché, "The Function of the Governor in Late Antiquity: Some Observations," 31-36.

as well as forfeiting the right to be buried with their fathers.”⁴¹ The undesired influx of citizens into the capital plagued the city with a series of effects, which the emperor sought to extirpate and thus it was deemed that the situation had reached a boiling point.

In order to rectify this state of affairs, the law concludes that:

...and the defendant shall have, not only ten days, as formerly, but twenty days, in which he may, if he wishes, object to the judge (referee) or ask that another sit with him, or in which he may acknowledge the debt and come to an amicable settlement with his adversary, so that he may not, through wrong fraud, fall into the power of a judge, who may, perhaps, be suspected by him, perhaps may be unfavorable to him, or may have something personal against him, and so that a man who is sued may not be deprived of an opportunity to know the reason for which he is summoned.⁴²

Therefore, the summons period was not only the source of loopholes that the plaintiff could exploit in terms of the amount of time granted to the defendant to present himself, but this law also demonstrates how it was the source of many other problems, which have been touched upon just above. The abuses committed by the more influential could manifest themselves in their ability to manipulate the judicial system by influencing the selection of judges. Generally, patronage itself was a threat to the integrity of the legal process and evidently this issue was one target of this reform.⁴³

Justinian’s effort at reforming the fiscal, administrative and judicial institutions, amongst others, is significant due to the nature of the reforms themselves. Anything considered rash and new was not welcomed by the Romans of the period, as for example

⁴¹ *Nov.* 80.10.

⁴² *Nov.* 53.3: et non secundum antiquitatem decem solummodo dierum habere eum qui admonetur indutias, sed duplices, hoc est viginti, ut sive repudiare voluerit sive et cum eo alium iudicem petere, licentiam habeat hoc facere aut forte cognoscere debitum et liberare se ab adversarii sui contentione amicabiliter, et non per calumniam et circumventionem sub iudice constitui forsan suspecto, forsan ingrato, plerumque autem aliquid etiam proprium contra reum dispensante, et eo qui litem sustinet nullum habente tempus ad cognoscendum, in quibus conventus occurrit.

⁴³ J. Harries, *Law and Empire in Late Antiquity*, 215-216.

the change from Latin to Greek in administrative affairs tells. John Lydus not only lamented this, but also retorted sharply to this development with a venomous invective against John the Cappadocian after discussing this linguistic shift in the administration.⁴⁴ More importantly, when John Lydus pursues the topic, he employs a vocabulary that is very noteworthy and this is key to this entire discussion: “For in his actions, his writings, his innovations and shakeups of old-fashioned ways in every manner...”⁴⁵ The terms *καινοτομῶν* and *τρόπου σαλεύων τὴν ἀρχαιότητα* are clear rebukes and demonstrate the insistence on John Lydus’ part to maintain a high degree of continuity with the past, when taking this excerpt in its context. He justifiably despised any form of innovation, as many others did in the administration, for he himself entered office because of his interests in antiquities.⁴⁶ Understandably, he was uneasy with all forms of innovation, notably when they threatened the employment of his peers; such as it did with the provincial reforms in Asia Minor. Furthermore, *taxis* was personified in the emperor himself and any threat to it was undesired, as there was a general “horror of ‘novelty’ or innovation.”⁴⁷ The series of words that John Lydus employs, which have been stated above, fit into a broader structure of Roman civilization and this is the uneasiness with and even contempt for innovation itself. *Innovatio* opposed the well-established structure of Classicism. Hitherto it has been noted that Justinian and particularly his Praetorian prefect, John the Cappadocian, initiated a flurry of reforms, such as the transition from Latin to Greek languages in the administration, which can be deemed innovative. Hence,

⁴⁴ Lydus, *De Mag.* 3.68.3 where the author defines his subject as *γραῶδη* and *χαμαιζήλον*. The former term is doubly insulting for he uses the feminine (senile old woman).

⁴⁵ Here, I provide my own translation of the passage: Πράττων γὰρ γράφων καὶ καινοτομῶν καὶ ἐκ παντὸς τρόπου σαλεύων τὴν ἀρχαιότητα... (Lydus, *De Mag.* 3.68.4)

⁴⁶ For Lydus: John Lydus, *De Mag.* 3.28.

⁴⁷ D.M. Nicol, "Byzantine Political Thought," in *Cambridge History of Medieval Political Thought c. 350- c. 1450*, ed. J.H. Burns (Cambridge: Cambridge University Press, 1988), 60.

it is now important to discover how innovation stands in between innovations, or in other words rash reforms, and classicism.

The rhetoric employed in the legislation is of utmost importance in the pursuit to uncover how its audience, which contained the likes of traditional bureaucrats, aristocrats, lawyers and others received these innovations. Innovations, as previously mentioned, were frowned upon. Therefore, the approach, which the imperial government took, when implementing anything of the sort, was exceedingly important. S. Barnish, A.D. Lee and M. Whitby have outlined one technique of doing so:

...it was more common for processes and structures to evolve gradually, through the introduction of a new official or procedure which ran alongside existing arrangements until the innovation either demonstrated its effectiveness by marginalizing its predecessor or proved unequal to the task.⁴⁸

The evidence does substantiate this and, in fact, this process was not coincidental. The creation of a parallel institution would be more amenable than a brash innovation.

However, this paradigm cannot apply to the new provincial administration in North Africa or to the reforms in North Africa. The consolidations of the military and civil administrations, and the reduction of the provincial bureaucracies evidently did not permit a period of transition. However, these same historians do add an important element to their argument, which should be stressed. When innovations were necessary, emperors often resorted to employing new men, talented bureaucrats of the lower order, to complete the tasks and consequently ignore the aristocrats, who would usually have received promotion.⁴⁹

⁴⁸ J.B. Barnish, A.D. Lee, and M. Whitby, "Government and Administration," in *Cambridge Ancient History*, ed. A. Cameron, B. Ward-Perkins, and M. Whitby (Cambridge: Cambridge University Press, 2000), 193-194.

⁴⁹ J.B. Barnish, A.D. Lee, and M. Whitby, "Government and Administration," 196.

The reason for choosing men like John the Cappadocian or Peter Barsymes was rather clear: they did not possess the vested interests of the established elite, and thus would not fear to prompt any novelties, which would vex the blue-blooded elements of the empire, and, finally, their employment depended strictly on the beneficence of their master and thus they would owe him their allegiance. In addition, the amount of cultural capital accrued by a man like John the Cappadocian could only be seen as a tremendous asset to the emperor.⁵⁰ A man from without with a high degree of know-how would not fear to challenge the ossified bureaucracy. Justinian saw in this perfect type of candidate an opportunity to address the imperial office's loss of unadulterated and not symbolic power over the bureaucracy.

Hence, if innovation per se was taboo, there must have been another or other methods by which Justinian and John the Cappadocian were able to mollify potential opponents. These possibilities now require exploration. Classicism, as it has been mentioned at the beginning of this inquiry, was a cultural structure of the period. The near obsession with literature of the golden age, which includes a plethora of celebrated authors such as Plato, Cicero or Euripides, amongst others, was commonplace. Even within literature, innovation was not something one would come across with regularity. Although there were exceptions such as the genre of hagiography, mimesis was more often the norm than not.⁵¹ Accordingly, the nostalgia evoked in the reforms was mainly aimed "to provide precedents and pretexts"⁵² so that innovations may not appear for what

⁵⁰ On the importance of cultural capital, see Chapter 1.

⁵¹ See H. Hunger, "On the Imitation (ΜΙΜΗΣΙΣ) of Antiquity."; C.A. Mango, *Byzantine Literature as a Distorting Mirror*. For the similarities between the genres of hagiography and biography, see above.

⁵² T. Honoré, *Tribonian* (Ithaca: Cornell University Press, 1978), 254.

they are, that is, a break with the established administrative standards and structures. A break such as this could only be seen as an attempt to reign in the bureaucracy.

Let us then return to the fiscal reforms and examine how the rhetoric employed in the legislation influenced its appearance and reception. When Justinian's reign is examined from a broad perspective, the large tracts of land that were conquered are some of his trademarks that come to mind. The expansion of Roman *imperium* to Africa and to Italy was an extremely costly enterprise and, as mentioned above, the emperor's Praetorian Prefect, John the Cappadocian did not fail to voice his displeasure at these grandiose undertakings that would entail a substantial amount of stress on the fiscal system, for which he, in large part, was responsible.⁵³ Before the expedition to Africa was agreed upon, John protested and lamented the potential dire straits in which the empire would find itself as the financial ramifications of these military expeditions that John envisaged were expressed in the laws issued during the same emperor's reign:

It is also necessary for you, my subjects, since you know how much we look after you, to pay all your public tribute zealously without waiting till the magistrates compel such payment, and you should be so obedient as to show us, in turn, by your very acts, your suitable thanks for our kindness, and that you have, because of your devotion, just claim on every favor and care on the part of the magistrates. Since the magistrates must, at all events, collect the tribute and it is clear that they perform this duty at their peril, you, too, knowing this, should avoid all contumacy and should not exhibit disobedient minds, which would require the use of severity, necessary on account of the unavoidable collection of taxes. It is, indeed, known to you, my subjects, that the expenses of the soldiers and the pursuit of enemies require much care, which cannot be met without money and admits of no delay.⁵⁴

⁵³ Proc., *Wars* 3.10.7-20.

⁵⁴ Nov. 8.10: Oportet quoque vos nostros subiectos, scientes, quantam vestri posuimus providentiam, cum omni devotione publica sine imminutione tributa persolvere, et neque administratorum egere necessitate, sed ita devotos vosmet ipsos praeberere, ut nobis ex ipsis ostendatur operibus, quia et ipsi pro huiusmodi clementia propriam nobis devotionem restituetis et merito habebitis omnem a iudicibus occasione devotionis favorem et providentiam: illud scientes, [ut] quia iudicibus imminet undique fiscalium periculum, et manifestum, quia in proprio

It is imperative to note the imperial drive for income to fund these very large ventures in the vocabulary, which alludes to the urgency and insistence upon the prompt payment of taxes in full. However, this rhetoric employed here is for one and only one design, which immediately follows this last passage above: “Nor could we tolerate a diminution of the Roman territory. We have, on the other hand, recovered the whole of Libya, have subjugated the Vandals, and with the help of God hope to do even greater things...”⁵⁵

The message conveyed in this particular section of the *Novel* indicates that the territory was not conquered but restored (*reparavimus*) to the emperor and his empire, after being lost by careless emperors of the past. Hence, it was in the emperor’s right to recover these lands, for they were once his and thus the aggressive wars, which were launched in the A.D. 530s were undoubtedly just.

The rhetoric employed is intended not only to justify Justinian’s campaigns, but to substantiate the pleas for effective and, as it is widely known, greater taxes, which have been examined above. Thus, the restoration or ἀνανέωσις of imperial domains through the reacquisition of lost territories is used in order to ensure that:

...the public tribute should be paid for these purposes without diminution, freely, and at the legally fixed times. Hence, if you zealously respond to the magistrates, they can easily and expeditiously pay the tribute to us; we can thus praise the magistrates for their diligence and commend you for

suo periculo administrationes assumunt: et vos hoc agnoscentes ex omni modo evitate indevotionem et nolite vestras voluntates ita praeberere inoboedientes, quatenus eorum egeatis vehementia, quam necessarium est eos assumere propter inevitabilem fiscalium exactionem; scientibus vobis nostris subiectis, quia militares expensae et hostium insecutiones multa egent diligentia, et non possunt citra pecunias haec agi, causa videlicet nullam recipiente dilationem...

⁵⁵ Nov. 8.10: neque nobis concedentibus despici Romanorum terram diminutam: qui et Libyam omnem reparavimus et Vandalos in servitutem redeimus et plurima adhuc et maiora horum speramus a deo percipere et agere.

your voluntary action, and there will be entire and concordant harmony between those that govern and the governed.”⁵⁶

Then again, the significant amount of symbolic capital Justinian gained from the conquests certainly served as leverage against his bureaucracy in a struggle for power. The implications of the Nika Riot must not be forgotten. Certain elements of the senate were opportune enough to use the riot as a tool to undo Justinian’s power, not to mention the Praetorian Prefect of the East John the Cappadocian and the Quaestor Tribonian, whose duty involved using spin in the law code.⁵⁷

On another occasion, in *Novel* 30, which delineates the provincial reforms of Cappadocia, there is a slight tangent, which discusses the reconquest in a similar light and the negligence of previous rulers is blamed:

...so as to give us hope to retain the government of the other countries between the confines of the two oceans, subject to the ancient Romans, but

⁵⁶ *Nov.* 8.10: pro quibus competens est fiscalia tributa sine imminutione et devote et secundum definita exigere tempora. Quapropter si vos quidem devote occurretis iudicibus, illi vero facilem et praeparatam fiscalium illationem in nos exhibuerint, et iudicum laudabimus studium et vestram approbavimus voluntatem, et undique una quaedam erit optima et consona praesidentium et quibus praesident congruentia.

⁵⁷ Marc. Comes, *Chron. s.a.* 532; Proc., *Wars* 1.24; John Lydus, *De Mag.* 3.70; Malalas 18.474ff. and *fr.* 46; Ps. Zach., *Chron.* 9.14; Theophanes, *Chron.* AM 6024; also, see J.B. Bury, "The Nika Riot," 92-119; A. Cameron, *Circus Factions*, 278-281. The two sources resting the riot’s blame on John the Cappadocian are not coincidentally part of the bureaucracy and thus see the praetorian prefect as a suitable target. The well-concerted effort to remove Justinian’s cabinet members appears to corroborate the claims of Marcellinus to a certain extent. It would appear to be a riot in which some members of the aristocracy saw their opportunity to rid themselves of the reformers. I do not believe that the riot’s inception was designed by these same elements of the aristocracy. However, G. Greatrex does not consider the role of the conspiring senators to have been significant: "The Nika Riot: A Reappraisal," 60-86. The removal of officials during a riot is nothing new, he argues. However, a *quaestor sacri palatii* has little bearing on the populace in comparison to a *praefectus urbanus* such as Theodotus. It is even unlikely that Tribonian’s name was known to the commoners of the capital due to his office. Though Tribonian was known to the aristocracy and his tenure of office as *quaestor* was not very helpful to that segment of society, as argued throughout.

thereafter lost by sloth. We shall, with the aid of God, make a change in that respect...⁵⁸

Thus, again, the topos of *ἀνανέωσις* is found in the rhetoric and once again it serves as a prelude to underline the necessity to collect taxes in a more efficient way and at a greater rate that also comprises the creation of new taxes for which John the Cappadocian was notorious. Hence, “we do not seek to avoid even the gravest difficulties, but submit to sleeplessness, hunger and hard labor for the benefit of our subjects.”⁵⁹ The stress in this passage is placed upon the necessity for citizens, once again, to answer to the weighty needs of the imperial administration. This burden is softened by the rhetoric that accentuates far more the restoration of the Roman Empire of old and the refurbishment of the reacquired land along the correct lines, which are evidently Roman, than the drive for greater income. Furthermore, the topos’ association to the reconquest is used as a legitimating device for the demands of increased revenue. This argument that supports the case of renewal indeed plays on a sense of Classicism to achieve the desired ends.

This same topos, that is, the restoration of lost lands to the Roman Empire, is used in the *Codex*, yet in a different context, this time in the institutional context. The reforms of A.D. 535-536 drastically overhauled the administrative structures of the provinces in Asia Minor for the most part and these were clearly innovative. In addition, once again, the newly acquired lands of North Africa were also subject to these administrative reforms after the reconquest. Justinian writes to Archelaus, the Praetorian Prefect of the new prefecture:

⁵⁸ Nov. 30.11: ...et spes habere bonas quis etiam reliquorum nobis detentionem annuet deus, quam prisci Romani usque ad utriusque oceani fines tenentes sequentibus neglegentiis amiserunt; quas nos divino solacio confidentes in melius convertere festinamus...

⁵⁹ Nov. 30.11: ...nihilque nos pigebit horum quae ad novissimam difficultatem tendunt, vigiliis et aliis universis laboribus pro nostris subiectis semper uti.

This grace of God was not granted to our predecessors, who were not only not permitted to liberate Africa, but who saw Rome itself captured by these Vandals, and all imperial ornaments transferred thence into Africa. Now, indeed, God, in His mercy, has not alone delivered Africa and all its provinces to us, but He has also restored the imperial ornaments to us which had been captured at and taken from Rome.⁶⁰

God, who also has a recurrent role in the legislation previously analyzed above, commands much more of a presence in this particular instance. However, the overall topos remains unchanged and, on this occasion, it serves as a prelude to justify the establishment of an administration, which possesses the same characteristics as those in Asia Minor that were subject to John the Cappadocian's reforms. Not coincidentally in the series of reforms the same model is utilized, but in a different fashion. The intent to drape the rash innovations targeting the provincial administration, here, is conducted by demonstrating how previous Roman emperors failed to reconquer the lost territory. The restoration (*restituit*) of these lands to Justinian, under the auspices of God, serves to display how his divinely sanctioned military endeavors serve as a buttress to his designs. He intended to make the transition as smooth as possible to implement a small and atypical bureaucracy in the region. This is especially a consideration due to the North African elite, which was brought back under the umbrella of Roman governance. This local aristocracy would have to do its share in the administration.

The necessity to drape the implementation of a smaller administration in the new prefecture of North Africa with a thick blanket of imperial rhetoric had its own aims.

There was an intent to placate the likes of traditional bureaucrats such as John Lydus,

⁶⁰ *CJ* 1.27.6-7: Quod beneficium dei antecessores nostri non meruerunt, quibus non solum Africam liberare non licuit, sed et ipsam Romam viderunt ab eisdem vvandalis captam et omnia imperialia ornamenta in Africam exinde translata. Nunc vero deus per suam misericordiam non solum Africam et omnes eius provincias nobis tradidit, sed et ipsa imperialia ornamenta, quae capta Roma fuerant ablata, nobis restituit.

who was rather vocal about Justinian's chief administrators' unorthodox fashion of conducting governmental affairs. C. Roueché's interpretation of the matter is twofold. She views the reforms as a reassertion of Roman identity. This would enable a firmer central control over the provinces.⁶¹ Her argument has its merits, but it also poses a very important quandary. The selection of imagery rooted in the old ways of operating government (whether of the Republic or of the High Empire) would be a conscious decision to use paradoxical trope. During the periods, the opposite was the truth; comparatively to the early sixth century, there was a lack of institutional and of political control of the periphery. A very large number of civil servants gained access to their field through a rigorous system of education (*paideia*), which involved the teaching of the classical works. With many bureaucrats like John Lydus that were familiar with classic authors in which these realities were portrayed, that is, a centrifugal authoritative apparatus, it would not be very effective to use this imagery to reassert firmer imperial power over its realm. This is especially true, for example, when such widely read authors as Polybius or Cicero exhibited these realities in their works.⁶² Though, the reassertion of central power is somewhat of an interesting point, C. Roueché makes, and this merits further investigation in the coming pages.

In the legislation examined above, God's role in the restoration of the Roman Empire under Justinian is no novelty. It is a traditional trope in ancient literature, which can be found, for example, in the *Corpus Hermeticum*, a collection of ancient works with a wide range of subjects including philosophy, which is attributed to Hermes

⁶¹ C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 89.

⁶² Polybius, *Hist.* 30.3; Cicero, *Ep. ad Atticum* 5.21 are two of several examples. The former highlights the Lycian revolt while the latter highlights a scandalous loan made to the Salamians by a Roman official.

Trismegistus. Most of the fifteen tractates contained within the work are dated to the second and third centuries A.D.⁶³ In the *Hieros Logos*, the motif found in Justinian's legislation is summarized in a few lines:

[Thus] there begins [men's] living and their growing wise, according to the fate appointed by the revolution of the Cyclic Gods, and their deceasing for this end... For every birth of flesh ensouled, and of the fruit of seed, and every handiwork, though it decay shall of necessity renew itself, both by the renovation of the gods and by the turning-around of Nature's rhythmic wheel.⁶⁴

From this excerpt, one might note the similarities of the broader themes implicated in the legislation and in the short tract, the *Hieros Logos*. The decay can be attributed to the previous Roman rulers, who were negligent in their management of the imperial realm. Inevitably, the empire would be renewed out of necessity by a divine hand and by the cyclical character of Nature. This evidently took place under Justinian, who therefore was selected by God to be the emperor at the culmination of this cycle. The parallel drawn here to Justinian is unmistakable, as it served as an effective tool to enhance the image of the emperor in his ambitious endeavors. Whether or not the inspiration is rooted in the broader trope or directly to the mystical work is debatable. However, the latter cannot be discounted, as the *Corpus* was not unknown to an educated audience, which included the likes of Augustine.⁶⁵

Then again, in a similar fashion, both Menecles of Barca and Athenaeus (the latter using the former's work) discuss the state of education in the Levant in the period

⁶³ See Nock who dates it between A.D. 100 and 300 in *Corpus Hermeticum* I, ed. A.D. Nock, trans. A.J. Festugière (Paris: Les Belles Lettres, 1945), iv-v; also see Reitzenstein, who argues that most was written in the second century A.D. in *Poimandres: Studien zur Griechisch-Aegyptischen und fruhchristlichen Literatur*, ed. R. Reitzenstein (Darmstadt: Wissenschaftliche Buchgesellschaft, 1966), 2-36, 207-211, 248.

⁶⁴ *Corpus Hermeticum* 3.4. Translation provided by G.R.S Mead: *Corpus Hermeticum* (London: J.M. Watkins, 1949).

⁶⁵ Aug., *De Civitate Dei* 8.24.

following the death of Alexander the Great. They both claim that the encyclic mode of education had fallen into a dismal state due to the unremitting period of strife during the Wars of the Diadochi. The blame was laid upon Alexander's successors for the destructive commotions. However, the regeneration of many types of learning took place under Ptolemy VII Cacergetes, when the Alexandrians began to reeducate the Greeks and the barbarians, both authors claim.⁶⁶ Thus, once again, one must note the similar pattern being employed in the legislation; the blame is placed upon previous rulers and the regeneration thereafter takes place in a glorious fashion. As a result, one can thereupon justifiably surmise that the rhetoric employed in the *Codex* is drawn from a literary bank of clichés that aids the author to utilize a selected cliché in different contexts, as it has been seen above where it was noted that the renewal or restoration of the empire was affixed to both fiscal and to institutional interests. These clichés conveniently drew upon classical authors and thus seem to be a product of classicism as a structured structure.

The reforms of the judicial system, which was riddled with troubles, were already analyzed above. As it has been seen above, was utilized in different contexts, but in this instance, it was employed in order to attain bureaucratic efficiency in the justice system. *Novel* 23 has already been visited and the rhetoric employed in the legislation is of interest:

And in this third chapter, provision must be made in a matter which was formerly well regulated, but has in recent times been neglected. Anciently magistrates were properly divided into three grades, the higher, the middle, and the lower. Appeals from the lower judges were not sent to the highest, but to the judges of worshipful rank (middle), the latter hearing the appeals in our place. In recent times this practice has been abandoned.⁶⁷

⁶⁶ Menecles, *Hist. fragmenta*, frag. 9.7; Athenaeus, *Deipnosophistae* 4.83.

⁶⁷ *Nov.* 23.3: Illud etiam in tertio capitulo disponendum est, quod antiquitas bene statuit, novitas autem neglexit. Cum enim veneranda vetustatis auctoritas ita magistratus digessit, ut alii maiores, alii medii, alii minores sint, et appellationes a minoribus iudicibus non solum ad maximos iudices

The rest of this passage has already been cited above, but the method by which it was introduced here delineates the institutional decline of the appeal system. The rhetoric in this instance is typical. The method by which affairs were conducted in the past was far more efficient, but by the time of Justinian, there was a significant amount of tension on the upper strata of the appeal system. By extension, the lower echelons had become obsolete, particularly at the provincial level, but not by the intent of the central administration. The provincial judicial system was rife with corruption and misadministration of justice, as it has been discussed in Chapter 3. On this particular occasion, a true return to the past was sought, as it appears, for the evolution of the judicial system had devolved in a direction, which diminished any level of efficiency.

Then again, in *Novel 47*, in order to ensure judicial efficiency, once again there is an insistence upon the old ways. An increased amount of effectiveness could be achieved through standardization:

We make this further addition: since obscure and antiquated signs are used in courts in order to denote the time, we order that after these ancient signs others shall be written which are clear and commonly used by all, which can easily be read by all...⁶⁸

Therefore, the complications, which took root in the diverse types of script used in dating judicial documents, inhibited their usage per se. There is no insistence on the restoration of the ancient script, but its standardized usage and thus by extension its revival ensures that it "...denote[s] the time of the proceeding, so that those who want to know the time

remitterentur, sed ad spectabilium iudicum tribunal quatenus et ipsi sacro auditorio adbihito litem exercerent, novitas autem hoc dereliquit...

⁶⁸ *Nov. 47.2*: Illud quoque adicimus: quoniam hi qui tempus in iudiciis designant, cum incertis illis et antiquis litteris hoc declarant, observetur in omni iudicio, ut post illas litteras antiquitatis alias subdant, id est has communes et omnibus notas et quae legi ab omnibus facile possint...

may not be left in ignorance till he finds someone who really understands these signs.”⁶⁹

Therefore, once more, one may note the desire to renew the old ways in order to reach a desired level of efficiency, but this time through standardization. Furthermore, it is also an illustration of the structure, classicism, especially in Late Antique high society. Due to the law itself being published, the habit of employing the ancient script seems to have been a commonality. This indicates how prevalent the structure of classicism truly was for it to be present in such a specific area as dating. The use of this type of dating testifies to the cultural and symbolic capital of its author.

There is still more to be discussed regarding the relationship between *ἀνανέωσις* and judicial efficiency. It has been underlined above how litigants were flocking to the capital and how the summons system was rather corrupt and inefficient. The imperial administration strongly opposed these inadequacies and sought to rectify the situation. The fact that the more influential components in society benefitted from the lack of reform is of importance here. Hence, in order to seal the zones of uncertainty and to establish a more equitable system, the past is once again present in the rhetoric as there was yet another renewal:

Indeed, our predecessors who enacted laws before us and set the state in order, gave careful attention to these matters, provided for proceedings against idleness and carefully looked into all things pertaining to strangers. Nor is this anything new or an unusual zeal for the benefit of matters, but praiseworthy and ancient, but which was, in the meantime, neglected through a sloth which affects everything adversely, gradually came into danger of being weakened and parish, until we, finding it useful and serviceable, introduced it anew in our state.⁷⁰

⁶⁹ Nov. 47.2: ...et significare gestorum tempus: ut non fatigentur requirentes id tempus, deinde errantes expectent, donec hominem quemcumque comperiant litteras illas pro veritate lecturum.

⁷⁰ Nov. 80.10: ...eo quod et ante nos ponentibus leges et rempublicam constituentibus haec non transitorio studio fuerunt, sed et pigritiae fuit quaedam scriptura et peregrinos omnes perscrutabantur. Et neque novum neque leve hoc causis studium, bonum quidem et antiquum,

The situation is resolved by controlling the migration of litigants to the city but more importantly, as it was noted above, when analyzing the writings of Menecles and Athenaeus, the same formula reemerges, that is, the decline due to negligence and a renewal thereafter. Yet even more importantly, there is an addition to this trope: memory. The old customs with regard to the management of incoming litigants into the capital had not been enforced regularly and therefore these old norms and procedures were on the verge of being entirely forgotten, but the central administration “knowing them to be useful and advantageous” implemented them once again in order to restore order. Rhetorically, this was a conventional cliché, dating back to Plato, if not earlier, who argued that one does not learn but recollects. His epistemological system, *ἀνάμνησις*, which was established in the *Meno*,⁷¹ was eventually taken up by many successors such as Themistius, for example, in the late fourth century, who asserts that “τί μὲν οὖν ἐστὶν ἀνάμνησις, εἴρηται, ὅτι μνήσις ἀνανέωσις. ὅθεν δὲ συμβαίνει, δῆλον.”⁷²

Interestingly, approximately three centuries after the creation of the *Codex*, the *prooimion* of Leo VI’s *Novellae* provides an interesting parallel:

The vicissitudes of human affairs, the inconstancy and diversity of the various conditions of life, have given rise to a great number of laws which, embracing matters of every description, determine with reference to each what is good, and what is otherwise, hence they act as guardians and physicians of Our lives; for, as on the one hand they prevent evil from arising and spreading through society, so, on the other, they correct what they were unable to foresee or prevent, and as they extirpate every kind of vice, they do not permit it to become confirmed. But as the course of human affairs resembles an ebb and a flow, while it alters and overturns all legislation, and frequently substitutes what is bad for that which has already been justly established, and plunges some laws into oblivion, so

neglectum vero in medio ab universa laedente negligentia paulatim periclitatum est corrumpi et perimi, donec nos prodesse hoc et utilimum invenientes rursus in rempublicam introducimus.

⁷¹ Plato, *Meno* 86b.

⁷² Themistius, *Themistii (Sophoniae) in parva naturalia commentarium*, p. 8 ln 14.

they become as thoroughly unknown as if they had never before been heard of, in this way it equally attacks all legislation by enveloping some of it in profound silence, and by giving rise to controversies respecting other enactments, either because those who promulgated them, having had neither steadfastness nor uniform opinions, contradicted themselves, or for the reason that their successors permitted customs to be introduced or laws to be passed in opposition to what has already been settled. Hence it happens that legislation becomes perplexed, and no small amount of injury is inflicted upon mankind, some laws being substituted for others, giving rise to the same confusion which results as when darts are cast at random.⁷³

The imagery in this particular excerpt confirms to what extent Leo's laws are not independent of previous authors just as the *Codex* or, in other words, to what extent the thesaurus of rhetorical clichés held such a prominent place in Late Roman and Byzantine law. The Platonic influence upon this particular statement can be found in the vocabulary employed; how previously established legislation becomes obsolete, falls into disuse and is thereupon supplanted, only to be forgotten, but does not fade into oblivion. Yet ultimately this formula is complete with this particular declaration:

Therefore, being of the opinion that it would be disgraceful to permit matters which are vital to the safety of the Empire, and which should be decided and confirmed in an invariable way, to remain in such disorder, We have deemed it advisable to renew and examine the laws with the greatest diligence and care.⁷⁴

⁷³ Leo III, *Novellae* pref. (translation by S.P. Scott, *passim*): Τὸ ποικίλον τῶν ἀνθρωπίνων πραγμάτων καὶ τὸ πολύτροπον τῆς τοῦ βίου καταστάσεως πολλοῖς καὶ παντοδαποῖς νόμοις παρέσχε λαβεῖν γενέσιν, οἱ τῷ πλήθει τοῖς πράγμασι συνεπεκτεινόμενοι τῇ πρὸς ἑαυτοῦς παραθέσει πᾶν ὃ τί τε καλῶς ἔχει καὶ ὃ μὴ διακρίνουσιν. Εἰσὶ τοιγαροῦν ὥσπερ τινὲς φύλακες τῆς ζωῆς ἡμῶν καὶ ἰατροί, ἃ μὲν κωλύοντες παντελῶς εἰς τὸν βίον ἐλθεῖν τῶν κακῶν, ὧν δὲ λαθόντων καὶ παρεισδεδυκότων τὴν βλάβην ἐπανορθούμενοι καὶ οἷον ῥιζοτομοῦντες τὴν κακίαν καὶ οὐκ ἑῶντες ταύτην κρατύνεσθαι. Ἀλλὰ γὰρ ἡ ἀνθρωπίνη φορὰ καὶ παλίρροια ἄνω τε καὶ κάτω πάντα στρέφουσά τε καὶ μεταφέρουσα καὶ πολλὰ μὲν εὖ κείμενα κακῶς μετατιθεῖσα, πολλῶν δὲ λήθην κατασκευάζουσα, ὥστε εἰ μὴδὲ τὴν ἀρχὴν ὥφθησαν λαχόντα γενέσιν καὶ ἀνεπίγνωστα εἶναι, οὐ μικρὰ τούτους ἐλυμήνατο, οὓς μὲν σιγῇ κρύψασα βαθεία, οὓς δὲ ἀλλήλοις ἀντιφθέγγεσθαι παρασκευάσασα, τοῦτο μὲν αὐτῶν ἐκείνων τῶν ἐκτεθεικότων αὐτοὺς οὐ μεινάντων ἐπὶ ταῖς πρότερον διανοίαις, ἀλλὰ σφίσιν αὐτοῖς ἀντειπόντων, τοῦτο δὲ καὶ τῶν μεταγενεστέρων ὅπου μὲν ἔθει ὅπου δὲ δόγματι τούτοις ἐναντιωθέντων, <ὥστε> καὶ ἐντεῦθεν συμβῆναι μὲν πολλὴν τοῖς νόμοις τὴν σύγχυσιν, οὐκ ὀλίγον δὲ βλάβος τοῖς πράγμασιν, ἄλλων πρὸς ἄλλας μετατιθέντων καὶ κατὰ κύβους πεττευόντων (Noailles and Dain's edition, *passim*).

⁷⁴ Leo III, *Novellae*, pref.: Τοιγαροῦν οὐκ ἄξιον παριδεῖν κρίναντες ἐν τοσαύτῃ συγχύσει καὶ

What laws have dwindled into obscurity can therefore be resurrected only because of the sheer fact that they were not eradicated but only forgotten. Therefore when they return to the forefront in jurisprudence, they are renewed by the usage of memory. In imperial rhetoric, this memory evokes a certain degree of nostalgia, which is honed by the imperial authors and in turn this legislation would seem less innovative than it really was at its core. Hence, not only can one notice the usage of the theory in which there is a cyclical evolution (negligence, decline and then renewal) but one might emend the final element of that formula by making one addition: by recollection.

As a result, at this point, there have been two distinct uses of *ἀνανέωσις* with their own subcategories. The first usage of this rhetorical cliché was affixed to the restoration of the Roman Empire in two different categories; the first being in the context of taxation and the second in an institutional setting. Then, it has been remarked that renewal in the judicial context has been utilized for increased institutional efficiency and for standardization. Therefore, at this point, it has been determined that there is clearly an absence of ideology within the legislative apparatus of the central imperial administration due to the diverse appropriations of the clichés in varying contexts. Now, one element, which has drawn quite a bit of attention in scholarship, remains to be examined and that is the provincial reforms initiated by John the Cappadocian.

ταραχῇ φέρεσθαι ὧν ἡ γαλήνη καὶ ἀταραξία τῆς πολιτείας ἐξήρηται, ἐπισκέψεώς τε ὡς ἔνι μάλιστα ἐπιμελεστάτης τούτων νόμους ἡξιώσαμεν...

Here, I think it appropriate to translate the verb “ἡξιώσαμεν” as “to renew.” Scott’s translation is not entirely accurate as it doubles the meaning of the verb from both ἀξιώω and ἐξιώω. The former is translated in ancient attic as “to deem,” but it loses that specific definition, when it later becomes “to beg” or “to request.” Therefore, the latter verb appears to offer a better alternative due to the context. It is translated as “to clean from rust” in the period. See E.A. Sophocles, *Greek Lexicon of the Roman and Byzantine Periods (from 146 B. C. to 1100)*, (New York: C. Scribner's sons, 1900) For the attic definition, see H.G. Liddell et al., *A Greek-English Lexicon*, (New York: Oxford University Press, 1996)

In the *prooimia* of several pieces of legislation, there are very interesting elements, which emerge regarding these same reforms and one of a later period has just been examined above. Also, the reforms have been touched slightly upon above in the context of the recovery of North Africa. Its administrative settlement was smaller in size than the norm of the period in other provinces. The reestablishment of these lands within the realm of the Roman Empire and the structuring of this new praetorian prefecture were part of a more general trend of the period, which was initiated by the ambitious Praetorian Prefect of the East, John the Cappadocian, who launched a series of reforms in the A.D. 530s that commenced a drastic overhaul of the provincial administrations, for the most part, in Asia Minor. The reforms themselves are laden with classicism, that is, the imagery of the old ways and the systems, which were in place in the Republic and in the High Empire, and the desire to implement anew these extinct methods.

Once more, *ἀνανέωσις* is used in a different context, but this time in a very sly fashion for it actually masked innovation, which was considered a dreadful thing in this period. For example, when a law is instituted, which addresses freemen and slaves, and inheritance, the legislation declares: “We have introduced [the law] not by means of innovation, but both since it is fairer and since Paulus records in his books, which he wrote about both Masurius Sabinus and Plautius, that it was acceptable to Atilicinus.”⁷⁵

One need note the fervent insistence upon the ancient origins of this law in order to ensure any legitimacy. However, when legitimacy itself cannot be ensured due to the absence of an ancient origin, the cunning authors of a law might declare that the

⁷⁵ *Institutes* 2.14 (here, I provide my own translation): hodie vero etiam sine libertate ex nostra constitutione heredes eos instituere permissum est quod non per innovationem induximus, sed quoniam et aequius erat et Atilicino placuisse Paulus suis libris quos tam ad Masurium Sabinum quam ad Plautium scripsit refert.

innovations “which nature everywhere produces – a preface often used in laws and which will again be used whenever nature performs her proper functions – have brought about the necessity for many new laws.”⁷⁶ Therefore, only when there is a total absence of ancient legal precedence does Nature assume responsibility for any legislation.

However, the most important point that emerges from this particular issue lies in the fact that innovation is to be strictly avoided. An established legal authority must be found at all costs in order to root the new law in tradition and if this were not possible only then might the emperor wash his hands of the issue by laying the blame on Nature. Nevertheless, the tendency to seek precedence in former jurists of note goes beyond this scope. Seeking justification through the past is a deliberate mechanism by which the innovator could simultaneously achieve two things. On the one hand, he is able to flaunt his symbolic capital to the members in his field through mimicry. This may not enable the acquisition of further symbolic capital due to the potential accusations of innovative designs. On the other hand, more importantly, the author lessens the charge of accusations by appeasing his detractors.

In this context, the essence of John the Cappadocian’s provincial reforms draws much interest, particularly with respect to innovation and precedence. When examining the series of *novellae* highlighted above, it was clear that John wished to make an abrupt change to a assortment of provincial administrations. More precisely, the aim of these reforms was not to renew the old ways of administration, but to implement a new system of governing the provinces. However, this could not be done carelessly, but in disguise:

⁷⁶ *Nov.* 84 pref: Multis undique natura novitatibus utens (dictum est iam in legibus hoc saepe prooemium, dicitur autem et iterum, donec illa quae sua sunt operatur) ad opus multarum nos pertrahit legum.

Here I translate “novitatibus” as innovations whereas Blume uses “new things.”

We are sure that the ancient Romans could not have founded so great a state from small and slender beginnings, and could not thereafter easily have acquired the whole world, as we might say, and established their government therein unless they had been made more illustrious by the greater magistrates sent into the provinces, and unless they had given them the authority of arms and the laws, and unless they had been apt and noted in the use of both of these. These men were called praetors, and they were given this name because they preceded all others and drew up the line of battle, and the management of war as well as the making of the laws was committed into their charge. Hence, they ordered judicial tribunals to be called praetorian seats (*praetoris*), and many laws were issued by them. Many praetors held and administered provinces, some of them Sicily, some of them the island of Sardinia, some of them Spain, some of them other land or seas.

Contemplating these facts and reintroducing antiquity into the state with greater splendor and bringing honor to the Roman name...⁷⁷

This is one of many occurrences in the series of reforms where the past is invoked by the author. It is a distinct mark of the cultural structure, classicism. The question, though, is why return to a form of government that was centrifugal and thus by extension, why would the central government undermine its own authority; that is if one were to take the rhetoric as an expression of imperial ideology. This was not the case, however, the venerated past was used here in these circumstances to soften effects of the following lines. We have visited these reforms above and noted the rashness of their nature. Hence, message of this passage above is of no value to the reform per se, that is, it contains no elements of the reform itself. It is but a rhetorical spin on the reform designed to gild the

⁷⁷ *Nov. 24 pref-24.1*: Et antiquos Romanos credidimus numquam potuisse tantam rempublicam ex parvis exiguisque principiis constituere et omnem ex ea orbem terrarum ita dicendum capere ac possidere, nisi maioribus iudiciis per provincias destinatis gloriosiores hinc viderentur et praeberent eis potestatem armorum et legum et ad utrumque haberent eos opportunos et dignos existentes. Quos etiam praetores vocabant, eo quod praeirent aliis omnibus et acies ordinarent hanc eis dantes appellationem, et committentes eis et civilia gubernare et de legibus scribere. Unde iudicialia quoque habitacula praetoria vocari disposuerunt, et copiosa lex ex praetorum nata est voce, multique praetores alii quidem Siciliam, alii vero Sardiniae insulam, alii Hispaniam, alii aliam et adquisiverunt et gubernaverunt mare ac terram. Haec considerantes nos, antiquitatem rursus cum maiori flore ad rempublicam reducentes et Romanorum nobilitantes nomen.

innovation. As we have seen again and again, this is not a novelty in a piece of legislation that is destined to upset its audience without the usage of such rhetorical devices. The rhetorical devices in themselves are expressions and even deliberate manipulations of Classicism.

Conclusively, in the first part of this analysis, the list of reforms that have been underlined have demonstrated a tendency for innovation in the first half of the reign of Justinian, particularly under the auspices of John the Cappadocian. To accomplish this feat, Tribonian was also essential, for he was tasked with dressing the reforms. He accomplished this feat by acknowledging the structure, Classicism, and using it against itself. *Mimesis* is less about the act itself than its desired outcome. In this case, the accreditation attached to the model was Tribonian's main focus. Whether it be in the drastic overhaul of select provincial administrations or in the increasing vigilance in the area of taxation, innovation per se was despised by the Romans. This is rather evident in Late Antique literary tendencies, for example. Classicism, as a structuring structure, was common knowledge and this thus set the frontier between what was acceptable (or well-established) and what was innovative. The legislation intentionally blurs the boundary between both and thus the power from the center exercised in law was used to interfere and make the audience do or perform something else than it would have done by its own will. Thus Classicism was not only a structure of Late Antique society, which the imperial government had to acknowledge in its endeavors to innovate, but it could also be used to exploit this aforementioned inherent cultural tendency. Therefore, the repeated references to the past in the *novellae* are less a question of authorship, as M. Maas

argues.⁷⁸ It was an expression of the cultural norm. In the *Codex*, we can notice this in a myriad of locations. The legislation, which lacks any form of ideology, was often innovative and sought to circumvent the unquestionable consequences of its nature by invoking the authority of precedence in order to justify its legitimacy erroneously. The Nika Riot necessitated a change in approach. Innovative reformers could possibly incur the opposition of the imperial bureaucracy. These reforms affected particularly the social and economic capital of many individuals, both directly and indirectly. In a strange paradox, to mollify the inevitable opposition, the structure that inhibited innovations was used to accomplish them.

II) THE PROVINCIAL REFORMS OF THE A.D. 530s

The provincial reforms of the 530s include a multitude of references to a distant and nostalgic past. The object of these references is of interest in the following pages. We shall first examine the inception of diverse reforms in the *Codex* to thereafter uncover how classicism became a regular presence within the legislation.

The provinces were divided and thus smaller; the bureaucracy swelled substantially by the division of both the civil and military branches of the provincial administrations. In *Novel 24*, the first element, which is addressed in the *prooimion*, discusses the province of Pisidia, which still possessed two distinct administrative branches. The reform forced a union between both the civil and military administrations under a revived Roman office, the praetor. This antiquated term, which was also instituted in the provinces of Lycaonia and Thrace, is one amongst many others that were

⁷⁸ M. Maas, "Roman History and Christian Ideology in Justinianic Reform Legislation," 19.

included in the reforms of other provinces.⁷⁹ Similarly, a *comes* was installed over Isauria, a *moderator* over Pontus, proconsuls over Cappadocia and Armenia I.⁸⁰

It is thus important to discover why there was a union of these branches. There are several explanations, which may be explored. The sequence of legislation is also to be grouped with *Novel* 8, its precursor, in which there are several important elements addressed. Above, it has been noted that both A.H.M. Jones and E. Stein have argued that these innovations were chiefly aimed at the judicial system. Indeed, in this same novel, the importance of the judicial processes is highlighted. The status of governors was increased to *spectabilis* in order for them to hear a greater number of criminal and civil cases within their own jurisdictions. Their power was thus augmented over their subjects, bearing in mind that the imperial administration in Constantinople desired that a substantial decrease in appeals to the higher authorities within the prefectures and the capital itself would take place. Yet, examining this from a broader view, there is much more occurring. The emperor loosened his reigns over his provinces. This degree of autonomy attributed to the governors was intended to release a substantial amount of stress on the judicial mechanisms and simultaneously the capital wished that its provinces could handle their own judicial affairs. Appeals to the higher authorities were obviously still possible, but Justinian took further precautions to limit them.

Justinian first required that the provinces should handle all suits not surpassing the sum of 500 solidi, but later increased this limit one year later to 10 lbs. gold (720 solidi).⁸¹ However, he took care not to bestow too much power upon the revamped

⁷⁹ *Nov.* 25, 26.

⁸⁰ *Nov.* 27, 28, 29, 30. For Armenia I, the piece of legislation seems to be lost, but it is mentioned in Just., *Nov.* 31. The reorganization seems to have been already carried out.

⁸¹ For 500 solidi, see *Nov.* 23-31; For 10 lbs. gold (720 solidi): *Nov.* 103

governorships. He reformed and strengthened the office of the *defensor ciuitatis* to help alleviate many issues. First, the office was tasked to serve as a counterweight to the corruption of the governors. In addition, the *defensor* was tasked to hear cases involving 300 solidi or less. The ability to hear cases involving lesser sums was more convenient for the more modest Roman citizen, who, before, had to travel to the governor's court.⁸² This is important for it ensures a proper functioning judicial system in both directions. Furthermore, this could help thwart the provincials from using private petitions or even from flooding the upper strata of the judicial system. J. Gascou claims that this process, by which the litigant called on powerful individuals, replaced the recourse to state authorities in many cases.⁸³ Nevertheless, the imperial administration in the capital had taken a significant step to install a rigid bottleneck in the office of the governor in the appeal system and consequently the prefectures and the capital would not have to handle more suits than they could manage. The reform in itself was a sacrifice on behalf of the imperial center made; in essence, the reform signified an immediate secession of imperial power to the periphery. Though, whether this sacrifice was calculated to obtain greater power over the provincials long term remains to be determined.

The revamping of the judicial system endured further changes. Justinian also noticed that the office of the vicar had become obsolete. Inversely proportional to this phenomenon, the praetorian prefecture developed into the principal administrative unit between the capital and its provinces. The *tractores* had gradually taken on the financial duties of the vicars and, in addition, the provincials increasingly sought to appeal to the prefect and no longer to the vicars, who had grown corrupt and whose repute had

⁸² *Nov.* 15; for appeals see *Nov.* 15.4-5.

⁸³ J. Gascou, "Les pétitions privées," 93-103.

diminished.⁸⁴ Therefore, the vicariates of Asiana, Oriens (including Egypt) and of Pontica were dissolved as the one of Thrace had already been abolished. Moreover, the functions of the abolished offices were amalgamated into those of the refurbished governorships in the same dioceses. For example, the governor of Pacatian Phrygia received the powers of his diocese's vicar.⁸⁵ Consequently, the central administration was not only seeking to render its provinces more autonomous in its legal proceedings, but also to reduce the size of its bureaucracy. Once again, this appears to be a sacrifice of imperial power. Political control was being ceded to the periphery.

However much the reforms appear to have been centrifugal, it appears to be much more layered than at first glance. The dissolution of one of the three large administrative units is significant, for it rationalized and simplified the structures of the imperial administration. As it has been argued in Chapter 3, the diocese quickly became an administrative albatross, which endured over two centuries. Nonetheless, this change did not come without its problems, as Justinian restored the vicariates of Thrace and Pontica and other officials were appointed with inter-regional judicial powers. Inter-provincial policing was a need that was clearly overlooked in the office's abolition.⁸⁶ Despite this reversal of policy, which occurred after John the Cappadocian fell out of favor, the reform program is quite clear. The imperial government was seeking to trim the bureaucracy where possible, while still attempting to maximize efficiency. For this reason, J.E. Atkinson correctly views many of Justinian's reforms as a broader move

⁸⁴ A.H.M. Jones, *The Later Roman Empire, 284-602*, 281.

⁸⁵ Nov. 8, 24, 25, 28, 29, 30, 31; *Edict* 13.

⁸⁶ Nov. 145, 157; *Edict* 8.

towards flat structures.⁸⁷ Inadvertently or not, this entailed a more self-reliant provincial structure, notably in the areas of organizational coordination and communications. Though, the reduction of personnel does in many regards benefit the emperor. As it was proposed in the previous chapter, bureaucratic growth was detrimental to the emperor's power. The bureaucracy by definition standardized processes and thus that in itself leads to predetermined results. Therein, the emperor's power, which was absolute in theory, was diminished in many respects. The subsequent ossification of the bureaucracy and proliferation of zones of uncertainty profited the aristocracy in the imperial administration disproportionately. The relational nature of Roman social space enabled this development. The upper tier of the aristocracy did not gain the advantage in the distribution of power due to the amount of capital they accrued. Their ascension in this very space was due to their amount of capital in relation to the emperor. The emperor's power trended much more towards an embodiment of symbolic sovereignty. Yet, this development did not reach the extent of a constitutional monarchy, for example. On the contrary, it was far from the case.

In addition to the governor of Pacatian Phrygia receiving extraordinary powers, the magistrate, who governed Cappadocia, was invested with great authority also. In *Novel* 30, the governor of the province received jurisdiction over both the civil and military administrations and received the title of proconsul. More importantly, the *domus diuinae* was inefficiently managed up to that point and, thus, the administration of these properties was given to the proconsul. He also had the task to supervise the agents of the

⁸⁷ J.E. Atkinson, "Justinian and the Tribulations of Transformation," *Acta Classica* 43 (2000), 15-32.

patrimony in Cappadocia and the other provinces of the diocese of Pontus.⁸⁸ Hence, once again, there is a clear redistribution of considerable powers to the provincial governors. This obviously does not fit the paradigm, which claims that Justinian was the epitome of the imperial autocrat in Late Antiquity. Moreover, this is further evidence of a notable cutback in the bureaucracy. Hence, *Novel* 24 increasingly seems to be exemplary of a larger program.

In another development, the proconsul of Cappadocia assumed the duties of the *comes rei privatae* in Constantinople in his province. Specifically, he was given the task to manage the imperial properties in Cappadocia. In these matters, the *cubiculum* replaced the *comes rei privatae* in A.D. 531, but the direct control of these lands was given to the governor of Pacatian Phrygia in this novel.⁸⁹ The evolving institutions of the capital were increasingly losing their powers to other rising offices. For instance, the local agents of the *sacrae largitiones* almost disappear from the sources in the sixth century as the governors took on all duties in every province. This was occurring despite the fact that the bureaus of both the *res privata* and the *sacrae largitiones* were losing their powers at an exponential rate to the *cubiculum*. Furthermore, in general, the decline of the *comes rei privatae* and the *comes sacrae largitionis* was due to the evolving activities of the governors, the *vindices* the *logothetes* and the *curatores domus diuinae*.⁹⁰ It is no coincidence, for there is a general pattern, which may be noted here. At this point, it may be deduced that the reign of Justinian witnessed a certain form of decentralization,

⁸⁸ Nov. 30; J. Haldon, "Economy and Administration," 40; J.A.S. Evans, *The Age of Justinian: the Circumstances of Imperial Power*, 212-213.

⁸⁹ R. Delmaire, *Les institutions du bas-empire romain, de Constantin à Justinien* (Paris: Editions du Cerf, 1995), 140.

⁹⁰ R. Delmaire, *Largesses sacrées et res privata: l'aerarium impérial et son administration du IV^e au VI^e siècle* (Paris: Diffusion de Boccard, 1989), 711-714.

which saw an increasing amount of power distributed from the center to the periphery, mainly the provinces and this was initiated under John the Cappadocian. Yet, that does not necessarily reflect reality. This aforementioned evolution of imperial offices ultimately led to a considerable centralization of power in the *cubiculum*, with which the emperor was able to manage the Empire as if it were his private property.⁹¹

In *Novel* 24, there is more information regarding the reduction of the bureaucracy's size. It states that the union resolved the constant bickering between both the military and civil administrations. Moreover, the union of both the civil and military branches entailed a reduction of personnel by restricting the praetor's court to one hundred officials. This was not only applied to Pisidia, but to all the other provinces in this same series of reforms also.⁹² It is quite clear that the central administration had an agenda when trimming the provincial administration. However, apart from this same *novel* and the others, which are part of this sequence of legislation, John the Cappadocian took further steps to ensure that the provincial governments remained modest in size. Earlier, in *Novel* 8, it was strictly ordered that any magistrate could not appoint any deputies in the cities.⁹³ Nevertheless, at first glance, it is equivocal as to why John desired that the governor and his court be reduced. This cannot be explained by a defined policy of financial cutbacks, for the upgraded offices of governors, in which the civil and military branches were fused, received the pay of both offices. The imperial administration's states its reason for this in its desire to reduce corruption by

⁹¹ R. Delmaire, *Largesses sacrées et res privata: l'aerarium impérial et son administration du IV^e au VI^e siècle*, 713-714; A.H.M. Jones, *The Later Roman Empire*, 284-602, 566-571.

⁹² *Nov.* 24, 25, 26, 28, 29.

⁹³ *Nov.* 8.4.

remunerating its officials generously, but there seems to be much more to the imperial rhetoric.

The union of both the military and civil administrations within these select provinces were not the only mergers occurring. Several provinces were combined and, thus, increased in size. Conversely, the tetrarchs had divided the large provinces in order to gain a tighter grip over them, most notably in terms of resources, the judicial system and the threat of usurpations. Eventually, the latter no longer caused significant trouble in the sixth century. However, the two former were still considerable concerns for the capital. The Tetrarchic reforms essentially achieved the opposite in these areas. In theory the expansion of the bureaucracy could reaffirm central control in the areas of both fiscality and justice.⁹⁴ Under Justinian, the judicial system was rationalized and reduced in size. The financial concerns still remain in this equation. When uniting provinces such as Paphlagonia and Honoriades, the emperor did not perceive any threats of a military rebellion.⁹⁵ Not only were the civil and military administrations consolidated in this instance, but two provinces also. The imperial administration must have seen the benefits from effectuating cutbacks in this area in which unnecessary expenditures could be limited. The fact that both the civil and military branches were united in a court of one hundred officials under a praetor, where there were two provinces and four separate administrations, clearly demonstrates this.⁹⁶

It has been examined up to this point that the emperor was allocating a certain degree of autonomy to the provinces in order that they might be able to handle a far greater amount of judicial cases and that the capital and the prefectures might not be

⁹⁴ See Chapter 3.

⁹⁵ *Nov.* 29.

⁹⁶ *Nov.* 29.

flooded with appeals. In addition, the increase of the governors' powers and the size of provinces seem to indicate a general pattern. Though that pattern was not applied uniformly, as this formula was not implemented empire-wide. *Novel* 31 is a relevant example that is not compatible with this previous category. There were regions untouched by this reform program, such as in Armenia, where there was a thorough reorganization.⁹⁷ Constantinople had very profound interests in this area. Two of the most important resources were available to the imperial government: military recruits and precious metals. In addition, J.M. Carrié correctly remarks that areas such as Armenia I and IV, Phoenice Libanensis and Palestine were not affected by these reforms because of the potential implications. Applying these changes would have been at an extremely high risk in foreign policy, he argues.⁹⁸ It would have thus been disadvantageous to loosen the grips over such an area. Nonetheless, in areas where the separation between both branches occurred, some civil magistrates still received important military privileges as Justinian allocated them certain troupes from the ducal garrison. They had exclusive powers over these soldiers and the proconsul himself had total power in case of civil unrest.⁹⁹ It may thus be deduced that the reforms were implemented only where a calculated withdrawal of imperial bureaucratic involvement was feasible. In other words, these changes were implemented where John the Cappadocian thought that the liabilities were inconsiderable.

The beginning of the reign of Justinian also saw a substantial crackdown on corruption. Corruption was not a novelty within the empire's administration. It was as old

⁹⁷ *Nov.* 31.

⁹⁸ J.-M. Carrié, "Séparation ou cumul? Pouvoir civil et autorité militaire dans les provinces d'Égypte," 116.

⁹⁹ J.-M. Carrié, "Séparation ou cumul? Pouvoir civil et autorité militaire dans les provinces d'Égypte," 116.

as the Republic and this could be noticed in Cicero's correspondences. *Novel* 24 echoes the declarations made in *Novel* 8, which orders the praetor and his men to manage an efficient government and which reiterates the elimination of the venality of the magistrate's office (*suffragium*).¹⁰⁰ The intention of this abolition of the sale of offices was to halt the most common source of corruption. The provincials would essentially foot the price paid for the office. The new magistrate, who purchased his office, often took liberties in the administration of his province in order to recover the loss of funds incurred by its acquisition. J.-M. Carrié argues that the legislation against the venality of offices was designed to restore the link between the center and the provinces, for the emperor was unable to control the nominations of candidates.¹⁰¹ However, it seems more likely that the imperial administration sacrificed the revenue drawn from the sale of offices in order that its provinces may be governed more efficiently and autonomously. This shift towards a horizontal organization in this case would also entail a shift in the power structure. The emperor could reclaim some of his power lost due to the bureaucratization of the empire. In essence, this has demonstrated that the concerns of the capital were not strictly monetary, but institutional. The proper functioning of the latter would ensure a correct flow of income by sacrificing revenue.

Furthermore, in Justinian's campaign to reduce the bureaucracy's size in the prefecture, *sportulae* were diminished.¹⁰² The goal of its reduction was to enable more litigants to have access to the judicial system. In addition, the totality of these judicial reforms on the provincial level permitted the system to function more autonomously. As

¹⁰⁰ *Nov.* 8, 24.

¹⁰¹ J.-M. Carrié, "Les gouverneurs romains à l'époque tardive: orientations de l'enquête," *AnTard* 6 (1998), 29.

¹⁰² Lost in *CJ* 3.2, but is referred to in *Inst.* 4.5.6.25; *Nov.* 17, 82, 86, 124; Malalas, *Chron.* 18.67; see A.H.M. Jones, *The Later Roman Empire*, 284-602, 497-498.

a result of these pieces of legislation, the governor had more authority over the provincials, but due to the increase in stature of the *defensor ciuitatis* the powers of the former did not go unchecked. *Novel* 8 even states that it is the duty of the citizens to warn the emperor about the eventual malpractice of his functionaries.¹⁰³ Furthermore, a more rigid bottleneck was implemented at the top of the province in its magistrate (the imposition of higher property value limits in the system of appeals). Therefore, the province with its simplified administration and its rationalized judicial system was in itself a more independent entity within the empire.

The result of these measures taken to clamp out the most destructive forms of corruption in the provinces was to shape a more efficient administrative unit. When Justinian loosened the bureaucratic grip over this select number of provinces, he still expected revenue generation at a similar rate. Hence, by issuing legislation against *suffragia* and on *sportulae*, he assumed that the provinces would not self-destruct when he authorized the change from a hierarchical to flat organization in targeted provinces. These reforms were intended to remedy these anticipated institutional problems upon the receipt of a certain degree of administrative freedom.

Hitherto, it has been remarked that, under John the Cappadocian, there was a campaign to weaken the bureaucracy. This was coupled with a significant reduction in bureaucracy's personnel and the entry into the imperial service was made more difficult as well.¹⁰⁴ This was not well received by the bureaucrats evidently. It is not astonishing then that John Lydus, Agathias and Procopius voiced an extreme amount of displeasure

¹⁰³ *Nov.* 8; C. Zuckerman, "Les deux Dioscore d'Aphrodité ou les limites de la pétition," in *La pétition à Byzance*, ed. D. Feissel and J. Gascou (Paris: Association des Amis du Centre d'Histoire et Civilisation de Byzance, 2001), 90.

¹⁰⁴ J.A.S. Evans, *The Age of Justinian: the Circumstances of Imperial Power*, 212-214.

due to the reforms. Then again the venomous critiques they aimed at the man who implemented them, John the Cappadocian, are even less surprising.¹⁰⁵ And this great frustration, which is voiced by Lydus and Procopius, may be explained by the progressive loss of power and not only to a reduction of personnel. The power wielded by the bureaucracy, particularly its most eminent parts, burgeoned since the early fourth century. It manifested itself in numerous ways. C. Kelly correctly points out that it manipulated information before it reached the emperor himself. Whatever information coming from the periphery to the center ran its course through countless functionaries, who deliberately distorted it. There were many reasons for this such as eluding punishment for corruption and illicit patronage.¹⁰⁶ This leads to the next discussion, which consists of the terminologies used in the legislation with regards to the bureaucracy.

It has been difficult for scholars to interpret the meaning of the usages of the antiquated titles, as it has been underlined in the first section above. W. Kaegi asserts that the revival of antiquated titles was directly correlated to the reconquests.¹⁰⁷ However, C. Roueché disagrees on this particular point and states that there was a keen interest in antiquated titles in the *Synecdemus*, which was likely completed in A.D. 529, and in the reign of Anastasius when the title of *vindex* was also revived. M. Maas later asserts that the presence of antiquarianism in the legislation was intended to mask the rash innovations.¹⁰⁸ This would then serve as a method to placate, to a certain extent,

¹⁰⁵ Proc., *Anecdota* 11.39-41, 12.12-14, 18.10, 21.1-2, 21.9, 22, 23.9, 24.1-12, 25.1-6, 25.16, 30.2; *Wars* 7.28-33, 2.26.39; Agathias, *Hist.* 13.7-14.4; John Lydus, *De Mag.* 3.57; 65.5-68.6.

¹⁰⁶ C. Kelly, "Emperors, Government and Bureaucracy," 138-183.

¹⁰⁷ W.E. Kaegi, *Byzantium and the Decline of Rome* (Princeton: Princeton University Press, 1968), 213-214.

¹⁰⁸ M. Maas, "Roman History and Christian Ideology in Justinianic Reform Legislation," 25.

bureaucrats such as John Lydus, who himself venerated the history of Roman government. Indeed, that is correct, as it was pointed out above. However, the method by which M. Maas examines the literary evidence fails to provide a compelling system to interpret the rhetoric.

The rhetoric used in the reforms did certainly achieve its aims to a certain extent. Yet the rhetoric could not deceive all of its audience, as some discerned the true agenda of the reforms. This does explain to a certain extent the hatred directed towards John the Cappadocian on the part of such figures as John Lydus and Procopius. The alienation of the traditional bureaucracy would eventually arouse a certain degree of resentment and opposition. However, it seems more likely that Lydus and others showed enmity towards John the Cappadocian for a combination of reasons. As it was mentioned in the first chapter, John earned his way to the apex of the administration with the formidable amount of cultural capital he possessed. He in many respects was an outsider. Otherwise, the simple reason could be found in John's concerted effort to reduce the size of the bureaucracy by abandoning a hierarchical organization for a flat one in the reformed provinces. In addition, one must not forget another event that could explain the animosity. The evidence of the Nika Riot indicates a deliberate targeting of John the Cappadocian and Tribonian's tenures of office. Both eventually became administrative casualties in the upheaval. Although they quickly regained their positions of power, employment security could not have been guaranteed. With regard to the city of Constantinople, Justinian had lost much social and symbolic capital too. Thus, the three men treaded lightly in their endeavours. As it has been stated above, Procopius and Lydus embodied the

bureaucracy's disapproval of the imperial court, which saw a senatorial element exploit the Nika Riot to challenge the emperor and his top officials directly.¹⁰⁹

Not only was the bureaucracy being trimmed, but Greek was also gaining ground very rapidly in government due to his efforts. John then used a clever method to mask his intentions. In the legislation, there are innumerable references to past glories, whether it be in the Republic or in the High Empire. This classicism gives the impression that the Roman government of the past was much more effective and honestly managed.

Therefore, in order to purify the Roman government, the law claims:

We are sure that the ancient Romans could not have founded so great a state from small and slender beginnings, and could not thereafter easily have acquired the whole world, as we might say, and established their government therein unless they had been made more illustrious by the greater magistrates sent into the provinces, and unless they had given them the authority of arms and the laws, and unless they had been apt and noted in the use of both of these. These men were called praetors, and they were given this name because they preceded all others and drew up the line of battle, and the management of war as well as the making of the laws was committed into their charge. Hence, they ordered judicial tribunals to be called praetorian seats (*praetoris*), and many laws were issued by them. Many praetors held and administered provinces, some of them Sicily, some of them the island of Sardinia, some of them Spain, some of them other land or seas.

Contemplating these facts and reintroducing antiquity into the state with greater splendor and bringing honor to the Roman name...¹¹⁰

This passage has been discussed above for other purposes. In this instance, the rhetoric employed in *Novel* 24 has the intention to distort the true picture through a deliberate exploitation of the cultural structure, Classicism. John Lydus came into favour precisely for his interests in antiquities and the usage of these antiquated terminologies provides a

¹⁰⁹ Procopius does not fail to make the same incendiary accusations directed to John the Cappadocian towards Tribonian: *Anecd.* 20.17; *Wars* 1.24.16.

¹¹⁰ *Nov.* 24 pref.

contrast to the series of innovations.¹¹¹ Thus, the ideology contained within the legislation is what may be understood as a cloak, whose goal was to mask the true objective of the reforms.

The central administration was intentionally delegating much more of its power to the provinces to make them more autonomous institutionally and judicially. Simultaneously, Justinian appears to have deliberately and systematically taken aim at the intrinsic network of the bureaucracy. Many of its members in the upper tier commanded enormous amounts of social capital. Moreover, many officials of lesser ranks still possessed formidable social networks that could easily undermine the rather complex system of communications in the government's organization. It appears that Justinian was attempting to erode the bureaucracy's power by reducing its size. The end result could indeed appear to support C. Roueché's argument if it were not for the shift to flat organizational structures in the provinces. There is another piece of legislation, which reinforces this notion.

In the *Pragmatic Sanction* of A.D. 554, Constantinople made a substantial concession to Italy. It permitted the regional bishops and the *possessores* to select their own magistrates within their own province and it also reiterated the abolition of *suffragia*.¹¹² This effectively undermines C. Roueché's argument. As the provinces had received an increasing amount of power, as it has been remarked above, this concession further ensured a more communicative and coordinated system. In another paper, C.

¹¹¹ For Lydus: John Lydus, *De Mag.* 3.28; For terminologies: H.J. Mason, *Greek terms for Roman Institutions: a Lexicon and Analysis* (Toronto: Hakkert, 1974). The term *κονσουλarioι* is regularly used as a gloss, but Hierocles uses it to designate consular governors instead of *ὕπατικός* in the *Synecdemus*. See C. Roueché, "Provincial Governors and their Titulature in the Sixth Century," 84.

¹¹² *App.* 8.

Roueché argues that the governor's office declined since its inception. The governor's initial tasks were to maintain law and order in newly conquered areas; the office then took on more of the role of a judge; lastly, the office then became obsolete.¹¹³ Indeed at the end of the fifth century and thereafter in the *PLRE*, governors are scarcely found in the *fasti* and few are found in the historical records. Consequently, she identifies the *Pragmatic Sanction* as a failure in the emperor's efforts to reaffirm his control over the provinces. However, it seems to be the contrary; this piece of legislation follows John the Cappadocian's reform program, in which the provincial administrations transitioned from hierarchical to flat organizations. The governorship may have declined before the advent of John the Cappadocian, but his efforts intended to refurbish the office with greater powers.

In addition, the *Pragmatic Sanction* was another tool with which the province could manage itself. The top-down power of the governor had its counterweight in this law and in the judicial mechanism. Years later, Justin II extended the stipulations in the *Pragmatic Sanction* to the whole empire and, once again, repeated that all *suffragia* were banned. In the law itself, the emperor claims that its goal was to eradicate the extortion caused by the purchase of offices.¹¹⁴ However, the abolition of the venality of offices implicates the presence of a much grander scheme. It permits the province to operate proficiently on its own without a more involved presence of the central government. When Constantinople eased its grip over the provinces, it still expected the designated amount of revenue. By targeting corruption in the upper echelons of this administrative unit and by ensuring generous salaries, the capital lost an income stream when it

¹¹³ C. Roueché, "The Function of the Governor in Late Antiquity: Some Observations," 31-34.

¹¹⁴ *Nov.* 149.

relinquished the revenue from the *suffragia*. It also could have saved money, when it downsized the administration by consolidating the civil and military branches. However, the long-term goal of these reforms was to ensure a lean and efficient bureaucracy, which required less supervision. Moreover, it enabled the emperor to sap some of the bureaucracy's power, which had in many respects hindered the unilateral authority of the emperor. Hence, although John the Cappadocian's reforms with regards to the vicariate were not entirely successful, the program itself was sustained.

Then one question has been left unanswered up to this point. It has not been explained why and how Constantinople could initiate these reforms. The Tetrarchs had launched their reform campaign in order to maximize their revenues and to have a much firmer grip over potential rebellious internal elements. Yet, in the sixth century, the imperial government seems to have been on the retreat, whether intentionally or not. Consequently, a link must have materialized between the center and the periphery that could replace the bureaucracy, which had been shed.

J. Gascou, J.H.G.W. Liebeschuetz, J. Banaji and P. Sarris, amongst others, believe that the empire's institutions were evolving due to a new aristocracy, which began to take shape at the beginning of the Tetrarchic reforms.¹¹⁵ The theory of *les grands domaines* has undergone some development since J. Gascou's initial work, which, in turn, was part of the reaction against Hardy's work.¹¹⁶ The latter claimed that the great estate was the cornerstone of Byzantine provincial feudalism. However, the recent research of Banaji, R.

¹¹⁵ J. Gascou, "Les Grands Domaines, la cité et l'état en Égypte byzantine," 1-89; J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*; J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*; P. Sarris, *Economy and Society in the Age of Justinian*.

¹¹⁶ E.R. Hardy, *The Large Estates of Byzantine Egypt*. Other negative perspectives on the great estate: E. Stein, *Histoire du Bas-Empire*, 472-473; G. Ostrogorski, "La commune rurale byzantine. Loi agraire - traité fiscal - cadastre de Thèbes," *Byzantion* 32 (1962), 139 ff.

Mazza and P. Sarris argues that the great estate was extremely monetarized and sophisticated.¹¹⁷ J. Gasco's argument, which proposed that the great estate was an extension of the public sphere, has been thoroughly revised by J. Banaji and P. Sarris. Both claim this theory to be an exaggeration. It was an extremely influential institution, which increasingly made private arrangements that frustrated the central administration. The state in turn was forced to accommodate the great estate and not vice-versa as it began to dominate public taxation.¹¹⁸ Though there is some validity to J. Banaji and P. Sarris' objections, T. Hickey has recently rehabilitated J. Gasco's work convincingly.¹¹⁹ There is one important passage in *Edict* 13 that reinforces this theory. The augustal prefect was prohibited from removing any *pagarch*, who was behaving fraudulently. This included failure to provide the grain supply, the freight charges or any form of public taxes. It was ordered that they should be reported to the emperor and that he, in turn, would take the necessary measures to remediate the issue.¹²⁰ Therefore, the *pagarchs* did indeed possess special privileges within the provincial administration. The importance of their contributions is clearly demonstrated in this edict.

The imperial government's deference to the great estate is symptomatic of the series of legislation initiated by John the Cappadocian. He must have realized that the bureaucracy was redundant due to what was occurring on the ground. The bureaucracy's

¹¹⁷ J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*; R. Mazza, "Ricerche sul pagarca nell'Egitto tardoantico e bizantino."; P. Sarris, *Economy and Society in the Age of Justinian*.

¹¹⁸ J. Banaji, "State and Aristocracy from the Late Empire to Byzantium," in *Production and Public Powers in Classical Antiquity*, ed. E. Lo Cascio and D. Rathbone (Cambridge: Cambridge Philological Society, 2000), 92-98; P. Sarris, *Economy and Society in the Age of Justinian*, 149-176.

¹¹⁹ See the rather compelling vindication laid forth by T. Hickey, *Wine, Wealth, and the State in Late Antique Egypt the House of Apion at Oxyrhynchus*.

¹²⁰ *Edict* 13.12, 25.

size was increasingly bogging down the imperial government, for many of its highly specialized offices had become obsolete. Between the capital and the periphery, the system of communications and coordination were less than satisfactory. That is not to mention the ease with which the powerful could exploit the bureaucracy.¹²¹ The evolution, which took place after the Tetrarchic reforms, actually required a withdrawal of the imperial long arm rather than vice-versa. In *Novel* 30, this reality is even admitted and, in addition, when the prefecture of Africa was organized after the reconquest, a significant number of traditional offices were not implemented.¹²²

This also explains the legislation's vocabulary, which attempts to paint an extremely powerful figurehead in the emperor. In reality, the emperor's ideological goals not only cloaked the innovative nature of the reforms, but his weakness in the face of these new social developments. Repeated attempts over the years to establish a firmer control on the ground failed and, thus, other venues were explored. Hence, John the Cappadocian realized that it was futile to attempt to undermine this well-developed and sophisticated system of administration thoroughly. Instead, he tried to adapt the central administration to the conditions. Therefore, he sought cutbacks where they could be made.

Conclusively, *Novel* 24 reflects the contemporary state of affairs within the empire and the direction, which the central administration took under John the Cappadocian. In the series of reforms that were initiated by him and Justinian, the imperial administration's concerns were institutional and by extension financial. The necessity to adapt to what was occurring on the ground required a transition in the bureaucracy. Its size was no longer essential to ensure the state's proper functioning.

¹²¹ See Chapter 3.

¹²² *Nov.* 30.9; *CJ* 1.1.27.

Even more so, its size was a hindrance to the unilateral authority of the emperor. Thus it was necessary to compromise in a somewhat interesting paradox. John granted more power to the provinces through a transition from a hierarchical to a flat organization. Simultaneously, the bureaucracy was trimmed. When reading in between the lines of these pieces of legislation, it is apparent that Constantinople was weak in the face of the complex web of administration. The bureaucracy's influence grew exponentially over the years, particularly in the case of the eminent aristocrats within it. J.-M. Carrié claims that the class itself came to mirror the senatorial one of the West in its tendency to practice patronage after having imposed the principle upon the central administration.¹²³ The imperial bureaucracy had developed into a formidable institution that pumped a significant amount of money in the provinces and, more importantly, for the capital, it assumed the important duty of collecting public taxes. Hence, the emperor could not thoroughly undermine it, but accommodate himself to maintain his power while keeping a certain degree of fiscality. Previous efforts attempted to reign in the bureaucracy and to subdue the notables had utterly failed.

The argument maintained by many scholars, which supports the notion of an imperial ideology, often resulting from a tension between Christianity and Classicism, cannot be sustained. From the analysis of the rhetoric found within the laws, there is a clear pattern. The objective or nucleus of the legislation is what is of importance. The imperial court determines the nature of the objective and thereafter tropes, clichés and rhetorical devices

¹²³ J.-M. Carrié, "Les gouverneurs romains à l'époque tardive: orientations de l'enquête," 29.

are used to drape that very aim. Manuals on rhetoric survive¹²⁴ but there appears to have been a bank of rhetorical clichés at the disposal of ancient authors. This is especially the case with regard to innovative reforms. Innovation was problematic for two reasons. First, it was in opposition to classicism, a longstanding cultural structure that established the past as a benchmark. Moreover, this structure demanded legitimization through longstanding tradition.

The emperor's alleged ideology, which was to assert his power through his new judicial compilation and his series of laws, was mere superstructure, for his main concern was to draw upon the resources of the provincials. Hence, he intended to transform the bureaucracy into a lean and effective machine, which was not as obstructive to his power as it once was. The central administration ceded to the bureaucracy but also undermined its power. Therefore, the strong rhetoric that was employed in legislation was in reality filled with empty declarations of imperial power. Justinian's main concern was to nourish his grand designs, which consisted of an elaborate web of networks in foreign policy, an impressive construction campaign and expansion, and not to gain the most absolute power possible over the empire. The sum of these ambitions required a vast amount of financial resources and thus a makeover of the imperial administrative institutions was necessary. As C. Kelly claims, the bureaucracy was a mere barricade between the emperor's purse and the local resources of the provinces. By reforming it, he hoped to reduce the distance between himself and the prized resources of his provinces. At the same time, the emperor could not rid himself of it. The Empire was far too dependent on its functioning. Moreover, the Nika Riot demonstrated how fragile the emperor and his

¹²⁴ For example, see Aristotle, *Ars Rhetorica*; *Rhetorica ad Herennium*; Quintilian, *Institutio Oratoria*. These are three among many more.

men could be. Hence, the paradox: a reduction in size and a grant of increased autonomy to the provincial administration.

Thus, it is far too difficult to claim that Justinian was the epitome of the Byzantine or Roman autocrat. On the contrary, the illusion caused by his legislation leads its readers to believe so, as it was the intention for his subordinates to do the same. It is thus difficult to accept that Justinian intended to further centralize the administration as C. Roueché, R. Delmaire, M. Maas or J. Harries claim.¹²⁵ It is quite the opposite, for John the Cappadocian launched a program, which sought to delegate more power to the provinces in order that they might become more efficient and require less intervention and supervision from the center e.g. the imperial bureaucracy. The capital expected its share of revenue to fuel its ambitions and a less unruly bureaucracy. This program seems to have persisted for decades through the reign of Justinian until the reign of Justin II. Whether it was as effective as John the Cappadocian thought it would turn out to be is a question, which ought to be addressed another time.

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¹²⁵ C. Roueché, "Provincial Governors and their Titulature in the Sixth Century."; R. Delmaire, *Largesses sacrées et res privata: l'aerarium impérial et son administration du IV^e au VI^e siècle*, 713-714; M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian*; J. Harries, *Law and Empire in Late Antiquity*, 214-215.

CHAPTER VI: CONCLUSION

The delineations made between the numerous periods of Roman history are indeed subjective. However, one may without fault conclude that a substantial change occurred in the first centuries of the Common Era. In many respects, it is not surprising when taking into account the breadth of the period in question. If we were to consider the extent to which Western Civilization changed in the last half millennium, for example, a similar conclusion would be reached with little surprise. It did not occur at one given point of time, but one event (or series of events) did trigger a mechanism, which set into motion the restructuring of Roman Civilization. The Roman Republic's expansion forced it to reconsider its mechanism of governance due to the shrinking size of Italy in relation to the broader territorial acquisitions. By the dawn of the High Empire, the Romans' ability to govern one of the largest empires in recorded history rested on two cornerstones. First, the Roman Empire's military might, in many respects, ensured its provincials' docility. Although, there were rebellions and other civil wars, the most threatening of them came from within (i.e. the Roman military and/or government). Second, the capital depended on the cooperation of a large network of cities. Each had its council and its duties to the capital, particularly in terms of fiscality.

As centuries passed and the Roman Empire's expansion slowed to a near halt, the influx of resources was largely reduced to the domestic product. Never again would Rome see the regular influx of exorbitant wealth as it did in the final centuries of the Republic's existence. Lucius Aemilius Paulus after the Third Macedonian War's conclusion, for example, carried home Macedon's treasury and spoils from Epirus,

essentially an untold amount of wealth.¹ With the consolidation of territory and an increasing defensive posture, Rome depended more on domestic exactions. The imperial government remained relatively small for the large tracts of lands in its dominion. Yet, it could remain so, by depending on local elites serving as delegates of Roman government. The threat of military might largely ensured obedience. A series of events changed the capacity to depend on this system. Citizen-soldiers did not form the nucleus of the military; military equipment grew increasingly expensive; the army's size was proportional to the area defended; spoils were no longer used to pacify the troops. The military was more than likely the most sizeable piece of the Roman budget. During the course of the second century, fiscal problems grew to be considerable. Septimius Severus expanded the military significantly and therefore its funding had to be adjusted as a result. The mints debased the coinage to keep pace and inflation began to plague the Empire. The third century saw these trends endure. Moreover, instability in domestic affairs plagued Rome for a better part of that century. Usurpations and rebellions were commonplace.

When the dust settled, the Tetrarchs attempted to address most of these issues in short order. Diocletian attempted to curtail inflation and Rome's propensity for civil wars. By the end of Constantine's reign, the currency was largely stabilized with the creation of the solidus. The Empire's map was completely redrawn with the creation of many new provinces and super-administrative institutions, namely the prefecture and the diocese. More importantly, a plan to mine the provinces more effectively was set into motion. Increasing fiscal efficiency would redress the Empire's ability to fund the military. This

¹ Livy, *Ab Urbe* 45; Plutarch, *Paulus*.

entire enterprise necessitated a drastic increase in personnel. However, with the intent to redress economic, fiscal and administrative problems, newer ones emerged.

Centuries old structures that remained relatively undisturbed began to undergo fundamental change. The stratification of Roman society took on a new appearance. In the municipal councils, the provincial elite was diverse. The *principales* were at the summit of these microcosms. With the void created by the expansion of the imperial bureaucracy, many of these notables flocked to it seeking significantly more lucrative opportunities. They were not fleeing the curiae; instead they were only pursuing greener pastures. This in turn created another chasm, but in this case the city councils was its location. With the migration to the imperial bureaucracy, the municipal councils were left with the more modest notables to manage civic affairs. Their ability to carry out their duties was in many respects proportional to their accumulated capital. This was especially the case with respect to fiscality. The Roman city's notables were in many respects the largest asset to the imperial government and to the curia. This very civic institution taxed their assets and then eventually those exactions were funneled back to the capital.

With the wealthy curiales move to the imperial bureaucracy came many ramifications. Many of those who found their way into the bureaucracy either became or eventually would gain immunities with regard to taxation. Yet, the expectations remained the same in terms of revenue. Hence, the curiae, from which the imperial government was increasingly demanding more tax revenue, found itself at a serious disadvantage in the performance of its most important duty. Emperor after emperor in the fourth and fifth centuries attempted to gain control over an unbridled social mobility. A plethora of laws

were written to address this particularly undesired effect of the Tetrarchic reforms. It took over a century to see a substantial decrease in legislation. This was surely due to the gradual settlement of this institutional chaos.

However, more corollaries were to come from the reforms. Their implementation caused a drastic shift in the nature of social, cultural and symbolic capital. In the case of the provincial elite, for centuries, social capital was largely limited to one or a combination of the following: the city, the city's environs and the province. There were individuals and families whose networks reached the heights of the capital. However, due to the limited size of the Republic and the High Empire's government, it was less common. With the reforms, the expansion of the imperial bureaucracy afforded many of its elements to develop social networks that would permeate their locality, region, province, prefecture, diocese and the capital. The power derived from such complex webs of relationships was formidable. Arms could be bent, laws flagrantly disregarded, favors made or called in, protection granted or received, and so much more. In essence, not much changed in the nature of the actions. However, much change occurred in the complexity, reach and sheer power such social networks could garner due to the expansion of the imperial bureaucracy. The upper stratum of the municipal elite, which largely found its way into the central government, was the benefactor of this evolved social capital. Meanwhile, the less affluent municipal elite stayed behind. The competition that is the political arena of the city lost its key players. The political arena for the *principales* that entered the imperial bureaucracy was so much broader.

The opportunities afforded by the reforms also unhinged some doors to gifted individuals. While cultural capital always involved institutionalized titles and the

possession of certain artifacts and education (particularly *paideia*), specifically one took on much more importance. Justinian was not bound to the old ways. He did not restrict himself to selecting candidates for positions on criteria such as pedigree, relationships and favors owed, to name a few. The most eminent positions were filled based on meritocratic principles. Hence, know-how became a much more important form of cultural capital in the period. It enabled the likes of John the Cappadocian to hold arguably the most eminent position in the Empire after the emperor himself.

In the last area where we might note significant change, one of the most fascinating areas of Antiquity comes into play. For centuries, the Roman city was adorned with architectural and engineering wonders: sewers, aqueducts, baths, temples, theaters, etc. Within the curia, competing elements vying for political supremacy used symbolic capital to further their agendas and their careers in civic life. This benefitted not only the competing curiales, but also the inhabitants of the city. However, with the Tetrarchic reforms, symbolic capital was fundamentally changed. The notables left the municipal councils for greener pastures. Their career aspirations were no longer in the city but in the imperial machinery of governance. Slowly but surely the urban landscape began to change and a general trend of ruralization took place. Urban structures began to fall into disrepair and newer ones were not emerging as they once did. The notables' no longer competed in the municipal political arena, but there still remained the more modest curiales who clearly did not have the resources to maintain the cadence. In some cases, the emperor or his officials filled the void.

Christian structures began to emerge however. The wealthy began to patronize monasteries, churches and other charitable buildings. Financial resources were never

short despite the decline of the urban landscape. Repeatedly in the sources, we may note eminent provincials handing over vast fortunes to invaders. This occurred despite earthquakes, recent invasions, the plague (however overstated it may be) and other misfortunes. The upper tier elite not only patronized the Church, but they also were more active in charity. Hence, symbolic capital in many respects can serve as a gauge of the culture in question. It indicates how a culture prioritizes certain facets while neglecting others. In this particular case, the evolution of symbolic capital defines the changing dynamics between the center and the periphery. With the reforms the periphery, represented by the city, its landscape and its politics, was overshadowed by the center's opportunities. In addition, it reveals much about the decline of the Roman urban landscape.

Prior to Justinian's enactment of the provincial reforms of the early A.D. 530s, the imperial bureaucracy was sizeable. That in itself is not problematic. However, when examining its functionality, one might quickly conclude that its size was not proportional to its ability to perform its duties. Two areas reveal to what extent this was the case. With regard to the judicial system, it was decidedly inefficient. The addition of the diocese under the Tetrarchs soon proved to be an ineffective solution to the Empire's judicial issues. It was largely ineffective with very few exceptions and, as a result, the vicariate would eventually become an extinct institution. Broadly, the justice system was rife with corruption. Capital was the key to the system. Perpetrators could exercise their influence over the process with either their economic or social capital, or a combination of both. The other significant issue plaguing the capital lied in its inability to streamline the appeals system. The unreliability of the lower circuit judges often led individuals to

ignore the established hierarchy. In some cases, the entire system would be ignored and more humble individuals would seek out *dynatoi* to resolve certain issues. The province and its governor saw a significant decline due to the Tetrarchic reforms. With the mutation of the upper-tier elite, came a series of problems. One of them rested in the governor's status and his ability to effectuate his assigned tasks. The meteoric rise of aristocrats of the highest order made the governor ill-equipped to exert his authority. In addition, taxation was an area where the governor and the provincials skimmed in the process. In essence, the imperial administration was laden with zones of uncertainty that were systematically exploited. The efforts to systematize procedures created predetermined results. Many of the bureaus became ossified, unable to adapt. In turn, this further enabled abuse.

By the time Justinian succeeded Justin, most of these developments had already crystallized. However, a quick survey of the sources would state otherwise. Justinian is portrayed in the sources and in much scholarship as an autocrat. The pomp and circumstance surrounding the reign of Justinian would have us believe this. Yet, with regard to power, he did not rival an absolute monarch such as Louis XIV centuries later. Though a bureaucracy did ensure the administration of France's dominions, the absolute monarch subjugated the nobility to the crown almost completely and could exercise its power much more arbitrarily. In Rome's case, the emperor had to be more careful with the handling of the aristocracy, particularly of the upper stratum. It is no coincidence that the reforms of the A.D. 530s demonstrate that.

Broadly, the rhetoric within the reforms is not a novelty. Rhetoric was a discipline studied for centuries at that point. The tropes and clichés were used as templates to be

applied in different circumstances. However, their true meaning is what is of interest.

Long-established structures of Roman civilization could be noted within the *prooimia*.

The *mos maiorum*, established in the days of the Republic, speaks volumes of the Roman propensity to confirm authority through tradition. When discussing the emergence of a new art, namely Latin rhetoric, Suetonius succinctly expressed this while quoting Lucius Licinius Crassus:

It has been reported to us that there be men who have introduced a new kind of training, and that our young men frequent their schools; that these men have assumed the title of Latin rhetoricians, and that young men spend whole days with them in idleness. Our forefathers determined what they wished their children to learn and what schools they desired them to attend. These innovations in the customs and principles of our forefathers do not please us nor seem proper. Therefore it appears necessary to make our opinion known, both to those who have such schools and to those who are in the habit of attending them, that they are displeasing to us.²

In essence, classicism was a structure that endured many centuries and the tendency therein could be found in Rome's *mos maiorum* and in its acceptance of religions through ancestry. Innovation was therefore despised.

With the intent to reform, Justinian was in a precarious position. He had just barely kept hold of his throne during the Nika Riots. Justinian and his ministers' intent to overhaul many provinces in Asia Minor could have further weakened his position. The innovations in the *novellae* were surely going to anger bureaucrats. The program aimed to trim the provincial administrations systematically by consolidating provinces and reducing the personnel involved. To alleviate any potential fallout, the *prooimia* were

² Suetonius, *De Rhetoribus* I: Renuntiatur est nobis, esse homines qui novum genus disciplinae instituerunt, ad quos iuventus in ludum conveniat; eos sibi nomen imposuisse Latinos rhetoras; ibi homines adolescentulos dies totos desiderare. Maiores nostrum, quae liberos suos discere et quos ludos itare vellent, instituerunt. Haec nova, quae praeter consuetudinem ac morem maiorem fiunt, neque placent neque recta videntur. Quapropter et eis qui eos ludos habent, et eis qui eo venire consueverunt, videtur faciendum ut ostenderemus nostrum sententiam, nobis non placere. (Translation provided by J.C Rolfe).

littered with references to the past. Rhetorically, the purpose of these historical references and of the restoration of defunct offices and titles was to draw away attention from the true nature of the reforms themselves. They were simply innovations and so to reduce the blowback from bureaucratic elements such as John Lydus, Tribonian had to find a solution. To give the reforms authority and legitimacy, the innovations were rooted in the past, when Rome was at its zenith.

The Tetrarchic reforms had significantly shifted the balance of power to the most influential segment of the aristocracy. Hence, Justinian could only achieve so much with the treasury left by Anastasius. Quickly, the coffers were emptied. Curiously, John the Cappadocian's complaints about the North African expedition's costs might have been an indication that he was well aware that the coffers would be depleted rapidly. To resolve the financial quandary, one issue confronting the center had to be addressed. Layer upon layer of bureaus separated the center from the periphery. Information was easily distorted and the *dynatoi* in the provinces could readily exploit this logistical problem. What plagued the Later Empire was not corruption per se. It was the relationship between the imperial center and the provinces that plagued the Empire. The balance of power shifted to the high aristocracy enabling abuses in the justice system and more importantly in the area of fiscality. The Nika Riots revealed how vulnerable an emperor could be. He no longer marched at the head of armies nor did he eliminate vast numbers of seditious nobles with proscription lists. The Riots may have proved how much of a gulf there was between the portrayal of the emperor as despot and reality. A *pagarch* in Egypt could flagrantly disrespect the emperor's patronage network without fear of retribution. The reforms acknowledged this reality, on the one hand, and attempted to limit it on the other.

Asia Minor's targeted provinces were ideal to launch this pilot program. The security concerns were minimal compared to other regions such as those near the Danube or the Euphrates. John the Cappadocian sought to delegate more power to these provinces so that they might be more self-sufficient in the application of justice and so that they might be less prone to the fiscal avarice of the bureaucrats. Principally, this did not differ wildly from the High Empire's relationship between the center and periphery. With these reforms, Justinian conceded that the scales tipped in the favor of the most elevated part of the elite collectively. He therefore did not attempt to undo their power. Instead he thought that he might be able to lighten his disadvantage by reducing the bureaucracy's size hoping to make it more efficient. Less hands would be in the till; a till that he so desperately needed to fuel his grand designs as emperor. The reduction of layers between him and the periphery would increase the availability of resources and would also reduce the bureaucracy's obstructiveness. The Empire's largest expense, the military, required sufficient funding to gain and to reconquer territories. That is not to mention, the expensive peace treaties that were signed and the grand building program. The reforms were never applied universally throughout the Empire. However, under Justin II, the policy was extended to Italy. Though the fiscal conundrum came to reach a series of peaks in the decades after Justinian. Ultimately, it caused a quick reversal of fortunes in Italy, Emperor Maurice's death and the collapse of the seventh century. At that point, the system of governance would eventually be forced to evolve.

LIST OF ABBREVIATIONS

| | |
|------------------------|--|
| <i>AnTard</i> | <i>Antiquité Tardive</i> |
| <i>BCH</i> | <i>Bulletin de correspondance hellénique</i> |
| <i>BGU</i> | <i>Aegyptische Urkunden aus den Koeniglichen Museen zu Berlin</i> |
| <i>BZ</i> | <i>Byzantinische Zeitschrift</i> |
| <i>CIG</i> | <i>Corpus inscriptionum graecarum</i> |
| <i>CIL</i> | <i>Corpus Inscriptionum Latinarum</i> |
| <i>CJ</i> | <i>Code of Justinian</i> |
| <i>CTh</i> | <i>Codex Theodosianus</i> |
| <i>De IV Cos. Hon.</i> | <i>De quarto consulatu Honorii</i> |
| <i>DOP</i> | <i>Dumbarton Oaks Papers</i> |
| <i>GRBS</i> | <i>Greek, Roman and Byzantine Studies</i> |
| <i>HA</i> | <i>Historia Augusta</i> |
| <i>IG</i> | <i>Inscriptiones Graecae</i> |
| <i>IGLS</i> | <i>Inscriptions grecques et latines de la Syrie</i> |
| <i>JAC</i> | <i>Journal of Agrarian Change</i> |
| <i>JRS</i> | <i>Journal of Roman Studies</i> |
| <i>MAMA</i> | <i>Monumenta Asiae Minoris Antiqua</i> |
| <i>MH</i> | <i>Museum Helvetica</i> |
| <i>MGH</i> | <i>Monumenta Germaniae Historica</i> |
| <i>ND Or.</i> | <i>Notitia Dignitatum Orientalis</i> |
| <i>Nov.</i> | <i>Novella</i> |
| <i>P&P</i> | <i>Past and Present</i> |
| <i>P. Cairo Isid.</i> | <i>The Archive of Aurelius Isidorus</i> |
| <i>P. Cairo Masp.</i> | <i>Catalogue général des antiquités égyptiennes du Musée du Caire</i> |
| <i>P. Oxy.</i> | <i>The Oxyrhynchus papyri</i> |
| <i>P. Thead.</i> | <i>Papyrus de Théadelphie</i> |
| <i>PG</i> | <i>Patrologie Graeca</i> |
| <i>PL</i> | <i>Patrologie Latina</i> |
| <i>P. Lond.</i> | <i>Greek Papyri in the British Museum</i> |
| <i>PLRE</i> | <i>The Prosopography of the Later Roman Empire</i> |
| <i>SGLIBulg</i> | <i>Spätgriechische und spätlateinische Inschriften aus Bulgarien</i> |
| <i>ZRG, Röm. Abt.</i> | <i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Römische Abteilung</i> |

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- . *Du village à l'empire: autour du registre fiscal d'Aphroditô (525/526)*. Paris: Association des amis du centre d'histoire et civilisation de Byzance, 2004.

MARK-ANTHONY KARANTABIAS

EDUCATION:

PhD Candidate, History, University of Kentucky (2015)
M.A. Classical Studies, University of Ottawa (2007)
B.A. Major: History, Minor: Classics, McGill University (2006)
D.E.C. Vanier College, Social Sciences (2002)

PUBLICATION:

“The Crucial Development of Heavy Cavalry under Herakleios and His Usage of Steppe Nomad Tactics,” *Hirundo: The McGill Journal of Classical Studies* 4 (2004-2005), 28-41.

CONFERENCE PAPERS:

- “The Imperial Bureaucracy in the Reign of Justinian,” Byzantine Studies Conference, 2009.
- “Provincial reforms in the Age of Justinian,” Ohio Valley History Conference, 2009.
- “State Revenues in the Reign of Justinian,” Bluegrass Symposium, 2009.

AWARDS AND ASSISTANTSHIPS:

- Academic Enhancement Assistantship – University of Kentucky (2012 – Present)
- History Department Teaching Assistantship – University of Kentucky (2008 – 2012)
- Dean’s Scholarship – University of Ottawa (2007)
- Vanier College Academic Achievement Roll: Honours (Fall, 2001)
- Méritas: Prix du Mérite en Histoire de la Société Saint-Jean-Baptiste de Montréal (1999)

TEACHING AND ADVISING EXPERIENCE:

- **Instructor**, University of Kentucky, (August, 2012 – Present)
UK 100: Critical Reading APP;
- **Teaching Assistant**, University of Kentucky, (Summer Semesters 2012 – 2015)
CLA 191: History of Christianity (On-Line Course);
- **Instructor**, University of Kentucky, (May, 2015 – June, 2015)
HIS 105: History of Europe, 1648-present;
- **Teaching Assistant**, University of Kentucky, (Spring Semesters 2010 and 2012;
Fall Semester 2011)
HIS 109: U.S. History since 1865;
- **Teaching Assistant**, University of Kentucky, (June, 2011 – August, 2011)
A&S 300-229: History of Christianity (On-Line Course);
- **Teaching Assistant**, University of Kentucky, (2010 –2011)
HIS 105: History of Europe, 1648 – Present;
- **Teaching Assistant**, University of Kentucky, (2008 –2009)
HIS 104: History of Europe, to mid-17th century;
- **Teaching Assistant**, University of Ottawa (Winter Semester 2007)
L'Histoire du Haut-Empire (History of the Early Roman Empire; taught in French);
- **Teaching Assistant**, University of Ottawa (Fall Semester, 2006)
L'Histoire de la République Romaine (History of the Roman Republic; taught in French).

PROFESSIONAL AND RESEARCH EXPERIENCE:

- **University of Kentucky**, Department of Academic Enhancement (2014 – 2015)
 - Member of Curriculum Mapping Team.
- **University of Kentucky**, Department of Academic Enhancement (2013)
 - Member of College Retention Research Team.